

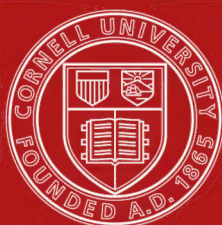
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TRANSCRIPT OF RECORD

VOLUME VI

IN THE
DISTRICT COURT OF THE UNITED STATES

For the District of New Jersey

United States of America

vs.

United States Steel Corporation and others

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v.6

A.297765

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VOLUME VI.

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TWENTY-SIXTH DAY.

Room 309, Federal Building,
Pittsburgh, Pennsylvania,

October 7, 1912.

The hearing was resumed at 10:30 o'clock a. m., before
SPECIAL EXAMINER JOHN A. BROWN.

Present on behalf of the United States, MR. DICKINSON
and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR.
SEVERANCE and MR. REED.

WILLIS L. KING,

a witness produced by and on behalf of the United States,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live?

A. In Pittsburgh.

Q. How long have you lived in this part of the country?

A. All my life; I was born here.

Q. What is your age, Mr. King?

A. I am in my sixty-second year.

Q. In what business are you now engaged?

A. In the manufacture of steel.

Q. How long have you been engaged in the manufacture
of steel, and before that, how long in the manufacture of
iron—before the uses of iron were largely superseded by
steel?

A. I have been connected with the Jones & Laughlin
people for over forty years.

Q. What position do you now hold?

A. Vice-president of the company.

ference in the size. They are all made on the blooming mill, semi-finished material.

Q. The bloom is an earlier stage, is it?

A. It is merely a larger size than a billet, technically known in the trade.

MR. REED: Excuse me for interrupting at this point, but Mr. King does not mean that all blooms, billets and slabs are Bessemer billets.

THE WITNESS: Oh, no.

MR. REED: That was the question.

THE WITNESS: Bessemer and open-hearth are the two grades of steel.

MR. DICKINSON: And they are all billets and blooms and slabs, are they?

MR. SEVERANCE: That has no reference to the process of steel making.

THE WITNESS: That is just the process of making them; that is rolling them on a certain mill, a blooming mill.

By MR. DICKINSON:

Q. What is the difference, if any, between tie plate slabs and plate slabs?

A. Only that they would be rolled into different material. The slabs themselves would not be any different. That is, they are made on the blooming mill. They would be finished in the finishing mill.

Q. Into tie plates?

A. Into a tie plate.

Q. It is just another stage of the process, is it?

A. Yes, sir.

Q. Is there any substantial difference between plate slabs and bar slabs? If so, what?

A. No, sir.

Q. How are they made; in the same or a different manner?

A. They are made in a different manner.

Q. There is a difference in size, or there may be a difference in size?

A. Depending on the size of the finished material that you wanted to produce.

Q. State whether or not there is any difference in the process of rolling heavy and light rails.

A. The heavy rail I should say was made on more modern, and as a rule better mills. The production is very much larger than in rolling the small rails.

Q. The machinery would be heavier, would it?

A. Yes, sir.

Q. But the process is essentially the same, is it?

A. Yes sir; the process is essentially the same.

Q. What is a tie plate?

A. A railroad tie plate?

Q. Suppose you see it designated in the market as a tie plate. What would you understand that to be? I believe, however, you have already described that.

A. Yes, sir.

Q. You have described it as a plate to fasten together the ends of the rails?

A. To set the rails on.

Q. That superseded the old-fashioned chair that the railroads used to use?

A. Yes, sir.

Q. What are the usual sizes of tie plates; how thick and how long?

A. To-day they are about 8 by 10 inches, and probably $\frac{1}{2}$ by $\frac{5}{8}$ of an inch thick.

Q. Can or not a mill that is equipped to roll slabs in general, of several sizes, roll tie plate slabs?

A. Not the same mill.

Q. You mean not the same rolls?

A. Not on the same rolls; and not in the same mill, either; because a mill that would roll the semi-finished material, blooms, billets or slabs, would not be suitable for rolling the smaller articles; that must be done on a different mill; a finishing mill, so-called.

Q. But can a mill be adapted to roll slabs in several sizes, and have among those sizes tie plate slabs?

A. No, sir.

Q. It requires separate machinery?

A. It requires a separate mill; yes.

MR. REED: Do you mean that as to tie plate slabs?

A. Tie plate slabs? I misunderstood you. They would be rolled on the same mill.

By MR. DICKINSON:

Q. It is merely a difference in the size of the slab?

A. Yes. I am much obliged for the correction, Mr. Reed. I thought he was talking about the finished plate and the tie-plate.

MR. REED: I knew you misunderstood the question.

By MR. DICKINSON:

Q. Is there or not any distinction between tin plate bars and sheet bars?

A. Only to the extent that a mill which rolled only sheets would call them sheet bars, and a mill that made tin plate would call them tin plate bars.

Q. The process is the same?

A. The process is the same, and they are practically the same size. Tin plate bars are a little lighter, perhaps.

Q. Can tin plate bars and sheet bars be used for common purposes?

A. Yes; either for sheets or plates, dependent on the size of the sheet and the weight you wanted to produce.

Q. State whether or not angle splice bars, and splice bars are competitive products.

A. They are used for the same purpose; but the plain splice bar has been superseded altogether by the angle splice bar, because it is a stronger and a better bar.

Q. But, at the time they were known in the trade, and before they were so superseded, they were competitive products?

A. They were used for the same purpose, if that is what you mean.

Q. That is, one could buy one or the other, and use it for the same purpose?

A. Yes, sir.

Q. Before the formation of the United States Steel Corporation in April, 1901, state which was the larger concern, the Carnegie Company or the Illinois Steel Company.

A. The Carnegie Steel Company.

Q. Did they or not roll larger sizes in the same products than the other?

A. They produced more tonnage.

Q. They produced more tonnage, rather than larger products?

A. Yes, sir.

Q. Please describe, rather fully, Mr. King, what is meant by the term "structural material." We have had that term pretty often, and I think it is desirable to get rather a full description of it from you.

A. The term structural material means a class of material, a shape of material, that is used for building some sort of a structure, whether a building, a vessel, or a bridge.

Q. Under that general term, state whether or not you would include beams, angles, channels, tees, splice plates for girders, etc.

A. I would say that list was a pretty full one. Those sections are a pretty full description of what is generally known as structural material; although I would not call tie plates—

Q. I did not say tie plates; I said tees. I said beams, angles, channels, tees and splice plates. You would not include splice plates?

A. I would not say splice plates, no.

Q. But the others you would include?

A. Yes.

Q. State whether or not at the time that the Carnegie Company and the Illinois Company were taken over by the United States Steel Corporation in 1901 and previous thereto, they had been competitors in interstate commerce.

A. Yes, sir.

Q. Please state generally in what classes of products they had competed, and in what territories they had competed.

A. I think they largely made the same class of product, and their territory was largely the same, except that the Illinois Steel Company, as a rule, would not come a great dis-

tance east. It would be against the law of trade. The freight would be against them. But at other places they competed, I think.

Q. You said, "as a rule." I will ask you whether or not, previous to that time, concerns that were competitors of that character, while they might have had a territory that normally was under their control on account of freight rates, by reducing prices and getting into trade contest in that way, did go into each other's territory and compete actually in that territory, that, normally, would not be within their control on account of freight rates?

A. I think that is a correct statement, at certain times.

Q. Did or did not that occur in those times among those competitive companies?

A. Yes, it did, at times.

Q. Would you have called the Carnegie Company and the Illinois Company, in 1901, when they were taken over by the Steel Corporation, integrated companies? If so, I wish you would please explain a little fully what your idea is as to the meaning of the term "integrated" at that time.

A. Did you say "integrated" companies?

Q. Yes, sir.

A. What do you mean by that?

Q. Well, I wanted to see what you meant, if you had used the term.

A. No; I never heard them called by that name. They were entirely separate in organization and management, and, generally speaking, competitors.

Q. I did not mean to say that they were integrated with each other.

A. Oh!

Q. But whether each company, in the character of its works and its processes, from the raw material to the finished material, the adaptation of its machinery for economical production in that way, and in the control of ore, or in the transportation of ore, were what I have termed "integrated" in that sense. Do you understand the meaning of the term in that sense?

A. I think they were.

Q. They were, at that time?

A. In that particular sense.

Q. I believe you stated that the Carnegie Company was somewhat the larger of the two, at that time?

A. Yes, sir.

Q. Which did the larger structural manufacturing; the Carnegie Company or the Illinois Company?

A. The Carnegie Company.

Q. We have spoken of the various products of steel manufacture under these terms of structural material, bars, etc. Which designation covers the largest class of tonnage that goes into the trade?

A. Steel bars have the larger tonnage.

Q. Of all manufactures of that character?

A. Yes; they are more generally made.

Q. Is it or not adapted, generally, for more uses when it is put out into the trade?

A. Yes, sir.

Q. Just state how that is, Mr. King.

A. A bar means a piece of steel rolled into round, square, flat or hexagon shape; and it is used very generally in the manufacture of all classes of machinery—agricultural, the making of bolts, nuts, rivets, spikes, and a great variety of uses.

Q. And a larger tonnage of the iron products goes out into consumption in that form than in any other one form, as I understand you?

A. That is my understanding.

Q. State whether or not the Carnegie Company and the Illinois Steel Company, at times, sold large quantities of billets before the formation of the United States Steel Corporation.

A. I could not testify accurately as to the proportion of billets they sold, but, generally speaking, they did sell billets and blooms and slabs.

Q. Where were those sold, generally?

A. They were sold generally to other mills who did not have steel plants.

Q. And, generally speaking, where were those mills lo-

cated throughout the country? I mean, designate the territory in a broad way.

A. The great territory for raw material was, of course, in the Pittsburgh District for the Carnegie Company, although there were mills in Eastern Pennsylvania and in Ohio. In fact, a mill, wherever located, that did not have a steel plant and was rolling finished steel must, of necessity, buy the semi-finished material in the shape of a billet or a slab or a sheet bar.

Q. Those concerns were located variously in various states?

A. Yes.

Q. And sales were made variously in various states?

A. All over the country, yes.

Q. Mr. King, state whether or not you recall an occasion, prior to the formation of the United States Steel Corporation, when there was a sharp contest for trade between the Carnegie Company and the Illinois Steel Company, and what effect that had upon prices and in what the competition consisted.

A. I recollect some such unusual competition. I do not believe I can fix the exact date, Judge. It resulted, however, as it always does, in a reduction of prices.

Q. All along the line in which they manufactured?

A. Yes, sir.

Q. You say you cannot fix the date. Was it or not before the United States Steel Corporation was formed?

A. Oh, yes.

Q. State what was the character of that, from the point of severity in competition.

A. As I recollect, it was very severe competition for a time. Prices went to an extremely low point.

Q. State whether or not the Carnegie Steel Company, prior to its being taken over by the United States Steel Corporation, competed in the sale of billets in interstate commerce with the several companies that I shall now name; and you can say yes or no to each one, and that will save me the necessity for asking you the specific question separately in each instance.

MR. SEVERANCE: You are asking if the Carnegie Company competed with the ones you are now going to enumerate?

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. The Ohio Steel Company?

A. Yes.

Q. The Buhl Steel Company?

A. I would say yes to that.

Q. The Aetna Iron & Steel Company?

A. Yes.

Q. The Shoenberger Works, subsequently acquired by the American Steel & Wire Company of New Jersey?

A. Yes.

Q. If ever, when did the National Steel Company begin the manufacture of steel rails at the Ohio Steel Company's Youngstown plant?

A. Do you mean the date?

Q. Not the exact date; but state whether or not it was before the formation of the United States Steel Corporation.

A. Yes; I think so.

Q. That was done before that time?

A. As I recollect it.

Q. Mr. King, state whether or not, prior to the formation of the United States Steel Corporation, you knew, and if so, state in what way you knew it, of any announcement coming from the Carnegie Company that they planned building a plant at Conneaut, and what character of plant.

MR. SEVERANCE: I object to that. It calls for hearsay or rumor, as was the case with other witnesses who have been interrogated on the same subject.

(By request the stenographer repeated the pending question, as follows:)

"Mr. King, state whether or not prior to the formation of the United States Steel Corporation you knew, and if so, state in what way you knew it, of any announcement coming from the Carnegie Company that they planned building a plant at Conneaut, and what character of plant."

THE WITNESS: I heard such statements; that is, I could not say that I heard them. It was a matter of common knowledge, or common rumor.

MR. SEVERANCE: It was a matter of rumor?

THE WITNESS: Yes. I do not know personally that that was officially announced. That is what I mean.

By MR. DICKINSON:

Q. State whether or not it was a matter of general report among iron and steel men at that time in this vicinity.

A. Yes, sir; it was.

Q. And a matter of common talk and gossip?

A. Yes, sir.

Q. Did the Carnegie Company sell tin plate bars before its absorption by the United States Steel Corporation?

A. Yes, sir.

Q. How about the National Steel Company?

A. They also did.

Q. State whether they sold those in competition in interstate commerce with each other.

A. I should think they did; I should say they did.

Q. I asked you about the general report and common talk as to the Carnegie Company building a plant at Conneaut, but you failed to say what kind of a plant it was.

MR. SEVERANCE: Same objection.

A. As I recollect, it was a plant for the manufacture of tubes and pipes.

By MR. DICKINSON:

Q. And what do you say as to the extent and character of the plant, in point of size and modern construction?

MR. SEVERANCE: Same objection.

A. I recollect it was to be a very modern and large plant.

Q. Mr. King, state whether or not you had personal knowledge of the existence of associations known as the Structural and Plate Associations.

A. Yes, sir; I had knowledge of them; I was the treasurer.

Q. The treasurer of both of them?

A. The treasurer of both of them.

Q. Did you attend the meetings of either or both of them?

A. Very generally.

Q. Representing yourself individually, or your concern?

A. Representing our concern, our company.

Q. About when did these associations begin?

A. The Plate Association was formed, as I recollect it, in November, 1900; the Structural Association, the last one, I might say, perhaps a year or two before then—perhaps 1897 or 1898.

MR. SEVERANCE: Which was formed in 1900?

THE WITNESS: The Plate Association.

By MR. DICKINSON:

Q. How long did those meetings continue under that kind of organization that you speak of?

A. Until the latter part of 1904.

Q. State whether or not in the operation of that association——

MR. SEVERANCE: Which one are you speaking of?

MR. DICKINSON: To save time, I am speaking of both associations.

By MR. DICKINSON:

Q. (Continuing) there was an apportionment, among the parties who were cooperating and acting together under those associations, of a percentage of product. Just explain how that was, please.

A. These companies, some six or eight, I should say, were apportioned such a percentage of the total tonnage as they had shown themselves able to produce, say in two or three years previous; that is, that was taken as the basis for the percentage of the whole they were entitled to.

Q. And each one was allotted the right to sell that percentage?

A. Yes; sir.

Q. Now, suppose any one of the members of that association exceeded that allotment; what was done, if anything?

A. There was a penalty per ton on such excess, which was paid, in turn, to those who had not shipped their allotment.

Q. Who were the members of the Structural Association, what producers or manufacturers?

A. The Illinois Steel Company, A. & P. Roberts, Cambria Steel Company, Lackawanna Steel Company, Jones & Laughlin. You asked about the Structural Association?

Q. Yes.

A. That covers them.

Q. Of those people engaged at that time in the United States in the production of that character of product, what percentage did those, acting together in the way you have described, amount to, of the whole product of the United States?

A. Well, quite a large percentage; I would say 90 per cent.

Q. Who were the members of the Plate Association?

A. I do not know that I can name them all. I will try to. Have you not a list of them there?

Q. Just name those that you can recall.

A. The Carnegie Steel Company, Illinois Steel Company, Otis Steel Company, Worth Brothers Company, Lukens Iron & Steel Company, Cambria Steel Company, Jones & Laughlin Steel Company.

Q. If there were any others, you do not recall them?

A. If there were any others, they were not very considerable.

Q. Of those acting together in the Plate Association and cooperating in the way you have described, what percentage did they constitute of the total capacity of those products at that time in the United States?

A. Probably about the same per cent.

Q. In the Plate Association what percentage was allotted to the Carnegie Company?

A. As I recall, something between 45 and 50 per cent.

Q. And what percentage to the Illinois Company?

A. Ten or eleven per cent.

Q. In the Structural Association, what percentage was allotted to the Carnegie and the Illinois Steel Co.?

A. Practically the same as in the Plate Association.

Q. In each of the two associations?

A. I think so.

Q. If any one took a special initiative or leadership in getting up the Plate Association, please state who it was.

A. My recollection is that it was Mr. Schwab.

Q. Speaking of the Plate Association, at those meetings, down to 1904, I believe you said, who attended from time to time representing the Carnegie Company?

A. Mr. Bope. My recollection is that he alone attended.

Q. In the Plate Association who represented the Illinois Company?

A. Mr. George Baker, general sales agent.

Q. In the Structural Association, who represented the Carnegie Company, so far as you recall?

A. The same gentlemen represented both.

Q. After this period came in 1904, when you discontinued the meetings of those associations that you have described, state whether or not there were subsequent meetings of those engaged in the manufacture of structural material and those engaged in the manufacture of plates.

A. There were meetings, as we thought, in a less objectionable form than the other organization.

Q. Did you have any written agreement in those meetings?

A. No written agreement.

Q. Did you keep any minutes?

A. No.

Q. There was no penalty?

A. And no penalty——

Q. Did you have a treasurer?

A. Well, a treasurer so far as actual expenses and salaries were concerned, but nothing more.

Q. You say there were no penalties?

A. No penalties and no percentages.

Q. Taking up the Plate, who attended those subsequent meetings?

A. The same gentlemen.

Q. How often did those meetings occur?

A. I would think generally about every sixty days.

Q. Taking the Structural, who attended those meetings?

A. Well, the same gentlemen attended both, right straight

through, and the meetings were generally held on the same day, for convenience sake.

Q. So, with the difference in procedure, the personnel was the same in both?

A. Yes.

Q. What was the object of the continuance of these subsequent meetings?

A. The object was to obtain a certain stability in prices, although, as a matter of fact, those subsequent meetings, especially during the entire years of 1906 and 1907, were occupied in preventing the price going to an unreasonable figure; in other words, in holding the price down, rather than putting it up.

Q. There had been a greater demand for products, had there?

A. Yes.

Q. What was the fundamental idea of such meetings, when the demand was below the capacity?

MR. SEVERANCE: I object to that as incompetent. The question properly should be as to what these men said to each other. I do not think Mr. King's idea as to what the fundamental purpose of such meetings was would be proper, or his impression of what was in somebody else's mind as to the purpose of the meetings.

By MR. DICKINSON:

Q. You have stated, Mr. King, that in 1906 and 1907 prices were up, and the main function performed was to keep them steady and at a constant figure.

MR. SEVERANCE: He did not say that.

MR. DICKINSON: Let us see what he did say.

THE WITNESS: I said that during 1906 and 1907 the object of those meetings on the part of the larger concerns was to prevent such an unusual or such an unreasonable advance in prices as to cut off the consumption and thereby be a detriment to the business.

By MR. DICKINSON:

Q. State whether or not those meetings accomplished that purpose.

A. They did accomplish it, yes. Prices, in my opinion, would have gone from five dollars to ten dollars a ton higher, temporarily, if it had not been for those meetings.

Q. It was a rising market, was it?

A. A very strong, active market.

Q. And there was a great demand?

A. A great demand.

Q. In previous times, when the demand had been short of the production, what was the object and effect of those meetings?

A. The object of the meetings was to obtain, if possible, a fair and reasonable price.

Q. In one instance, you have described the purpose and effect as being to keep prices from going unreasonably high.

A. Yes, sir.

Q. State whether or not prior to that, when the demand was less than the production, the object and effect was to keep prices from going lower.

A. I think perhaps that is a fair assumption.

Q. Is that a fair statement?

A. That is a fact, yes.

Q. At these meetings, which I have described as subsequent meetings, that is after the latter part of 1904, just state what was said and what was done by those who were there at those meetings.

A. The object——

Q. I am not asking now for the object; I am asking what was said and done.

A. These formal proceedings we were advised and became convinced were not lawful, and we endeavored to meet in a way that would not conflict with the law. That is to say, we did not want to conflict with the law, and met subsequently to discuss present and future business conditions and to talk about the rate of production that each was producing at that time and the prospects for the future, and as a rule we of course talked about prices.

Q. You understood that you could not make a written agreement?

A. Yes, sir.

Q. You understood that you could not allot an apportionment of production?

A. Yes.

Q. You understood, did you, that you could not provide for the payment of penalties?

A. Yes, sir.

Q. Mr. King, when you, at these meetings, discussed prices, state what was said and what was done in regard to prices, and whether or not any understanding was reached, and if so, explain fully just what the facts were.

A. Well, after discussing the question of prices, the consensus of opinion generally arrived at was that a certain price represented a fair market price, and that was understood to be the market price, by those who were at the meeting.

Q. You say it was understood to be a market price. Do you mean the price that was to be when you left the meeting or not?

A. At the time we were meeting, yes.

Q. If any time was understood for the continuation of that price, state how that time was limited.

A. There was no fixed time for any price to stand as the market price, but, if market conditions changed materially, some one of the members, as a rule, asked for a meeting, and it was taken up again.

Q. Was it understood that some member would ask for a meeting if conditions changed?

A. No, there was no understanding about it, but they always did.

Q. What was the understanding upon your part as to what others would do and what you expected them to do, in regard to the price that you would charge?

A. Well, I attempted to sell for my company our products at the market price, if I could do it, and if I could not do it, then I asked for a meeting to discuss the question.

Q. State whether you continued to sell at that price until there was a meeting.

A. Yes.

Q. From what was said and what you did, did you understand that they expected you to follow that course?

A. Perhaps all of them did not.

Q. You mean all of them did not follow it?

A. No.

Q. I am not speaking of what all actually did, but when you, as representing Jones & Laughlin, stated what your price would be, did you or not give it to be understood that you would continue that price until there was another meeting?

MR. SEVERANCE: Objected to as leading, incompetent and irrelevant. Mr. King has told you very frankly what was said and done, and it is not fair to put questions to him in a form where he is obliged to say yes or no.

THE WITNESS: I would say in a general way that the object of those meetings was, without any question, to bring about a stability in prices, except during the time that I have spoken of in 1906 and 1907, when the boot was on the other leg, and we felt it was a matter of good policy to keep the prices down.

By MR. DICKINSON:

Q. Well, that was stability in another way, was it not?

A. Yes, that was stability in another way, perhaps not as objectionable.

Q. State whether or not from these meetings generally—I am not speaking now of some individuals, how individuals may have acted, but generally among those there, after one adjournment until another meeting was called, whether these prices were maintained as announced there.

A. As a rule they were.

Q. You have stated that you had advice to the effect that you could not do as you had done before in some respects. That is correct, is it?

A. Yes, sir.

Q. And you started off under a new plan. Now state whether or not, as the meetings progressed, you adhered to the lines of that new plan as they had been first indicated,

or whether or not you proceeded further in the line of understanding and agreement.

A. As compared with the formal arrangements—

Q. After these formal agreements that you have spoken of, in 1904, were abandoned, what were you advised that you could do?

A. We were advised that we had a constitutional right, if you please, as manufacturers, to meet together to discuss our business and talk of the tonnage that the country was consuming or that we were producing, and to individually say to each other what we were charging for our various classes of product, and I think perhaps what we proposed to charge, individually.

Q. Are you certain of the last point?

A. I am not certain as to the legal features of it.

Q. But you are on the other point?

A. Yes.

Q. You did exercise your constitutional right of meeting, did you?

A. I think we did; yes.

Q. You did interchange information as to the tonnage?

A. Yes, sir.

Q. You did interchange views as to what prices you were then charging?

A. Yes, sir.

Q. Did you make any announcements as to what prices would be?

A. After everybody had talked at a meeting, I think as a rule the consensus of opinion agreed on a certain price as the market price.

Q. And, as I understand you—please correct me if I am wrong—in addition to what you have stated, you left expecting others to rely upon your selling at that price until there was another meeting or until you called a meeting?

MR. LINDABURY: I object to that. The witness has not said that.

MR. DICKINSON: What part do you think I am wrong about? Well, I will modify the question.

By MR. DICKINSON:

Q. As the meetings progressed did you, to any extent, depart from the lines that you had been advised were legal?

A. No; except that the conditions changed in 1906 and 1907 so that, as I have already told you, we were endeavoring to keep the price down to a reasonable price, rather than to put it up.

Q. Were you advised, Mr. King, that in addition to meeting, and in addition to exchanging information as to the tonnage of production, and in addition to stating what price you were charging, and in addition to individually announcing what your price would be, you could proceed further, and interchange views and announcements until you reached a common price, and then could adjourn and maintain that price until there was a call for another meeting, or a change of conditions which would justify a call for another meeting? Were you advised along that line?

MR. SEVERANCE: That is objected to as leading and incompetent.

THE WITNESS: I do not think that I could answer that question intelligently, except to say that the general object of these meetings was to have a stable market, to prevent the price from going too high or too low. That was the object. Morally, I would have felt bound to have advised these meetings if I proposed to make a radical change in price, or any change in price; but others did not seem to think so.

Q. You say "others"? You mean some others?

A. Some others, yes.

Q. How about the majority of the reputable men, the larger producers in there? How did they act?

MR. SEVERANCE: I think you probably would not want Mr. King to separate the sheep from the goats as to who were reputable and who were not reputable, Judge?

MR. DICKINSON: I am not asking for the names.

MR. SEVERANCE: We shall have to ask who were reputable and who were not, if you insist on an answer to that.

MR. DICKINSON: I do.

MR. SEVERANCE: I do not believe he will answer it. I do not think he can.

MR. DICKINSON: I think he will. He has tried to answer all questions, to the best of his ability.

MR. SEVERANCE: I do not think he can.

(By request, the stenographer repeated the pending question, as follows:)

“Q. How about the majority of the reputable men, the larger producers in there? How did they act?”

MR. SEVERANCE: That is objected to as incompetent and irrelevant.

THE WITNESS: If I must answer that I would say that, generally speaking, the larger concerns maintained the price better than the smaller ones; the larger ones; not the largest, but the larger ones.

By MR. DICKINSON:

Q. Specify which were the larger concerns that did this.

A. Well, in the plate—

Q. (Interposing) In both.

A. They are practically the same in both. I would say that the Carnegie, Illinois, Cambria and Jones & Laughlin companies were the larger of the companies represented there.

MR. SEVERANCE: That answer would seem to be objectionable, because it is not responsive. Counsel asks for the reputable ones, and the witness answers as to the larger ones. The larger one is not always the reputable one.

MR. DICKINSON: That is what we are contending in this case.

MR. SEVERANCE: I think he intends to convey the idea that the larger ones were the reputable ones.

MR. REED: Judge Dickinson said that question was going to be answered, but the witness is not answering it.

(By request, the stenographer repeated the question under discussion, as follows:)

“Q. How about the majority of the reputable men, the larger producers in there? How did they act?”

MR. DICKINSON: You see, I made them interchangeable terms. I put them in apposition with each other.

MR. LINDABURY: The question only asks in regard to the majority of them, anyhow.

By MR. DICKINSON:

Q. How long did those meetings continue under that new regime or dispensation?

A. The interest in those meetings decreased as the market became stronger and stronger, and I think they were discontinued, perhaps, in 1907; that is, as a formal organization.

Q. Mr. King, state generally whether there was any occasion for such meetings when the market was strong.

A. I have given you the reason that we thought a good one. The steel manufacturers have found by experience that an unreasonable price shuts off the consumption; and we were just as much interested in having the price a reasonable one as ever before.

Q. Do you know whether any of those meetings continued after November 20, 1907?

A. No, sir; they did not.

Q. Why did they not continue after that, if you know?

A. The panic came on in the latter part of 1907, and the exigency was so great that a meeting of the entire steel and iron trade was called in New York on the 20th of November by Judge Gary.

Q. What kind of a meeting was that?

A. That was a meeting to discuss, primarily, the panic and the effect that it would have on business; and the object of the meeting, as I understand it—I did not know anything about it until I was invited—was to urge or advise manufacturers generally not to allow the financial panic to get into business generally; in other words, it was a general attempt to prevent the steel manufacturers from losing their heads and giving away their business.

Q. Giving away their business in what manner?

A. By a sudden and unreasonable drop in prices, which would affect adversely all buyers of steel, and, indirectly, banks who had their obligations.

Q. Do you or not mean by going into sharp competition with each other in prices?

A. The general effect of a panic is that prices go down immediately.

Q. But when you spoke there of "giving away their business," state whether or not you meant by going into sharp competition on prices.

A. That was an awkward sort of term. I would rather put it "to conserve their business."

Q. To conserve it how?

A. I do not know that I can explain it better than by saying not to allow the panic to get in their business and adversely affect not only their own business, but the manufacturing and commercial interests of the country.

Q. "Get into their business" so that it would manifest itself in what way?

A. In preventing a sharp and unreasonable reduction in prices.

Q. Were you or not at that meeting?

A. Yes, sir.

Q. Where did that meeting take place?

A. At the Waldorf Hotel.

Q. And what was the occasion there? Was there any sort of an entertainment?

A. Judge Gary invited the steel manufacturers to a dinner, and this matter was discussed at the dinner.

Q. State what proportion of the steel and iron trade of the country was represented at that meeting.

MR. LINDABURY: Would you mind getting the date of that, Judge?

MR. DICKINSON: He said 1907.

THE WITNESS: November 20, 1907.

(By request, the stenographer repeated the pending question, as follows:)

"Q. State what proportion of the steel and iron trade of the country was represented at that meeting."

THE WITNESS: Oh, probably 90 per cent. or more.

By MR. DICKINSON:

Q. Was there any record made of that meeting or the proceedings, by a stenographer?

A. I do not happen to know. I have not got such a record, if there was one.

Q. Do you recall whether any stenographer was there and took down the proceedings?

A. I do not recall.

Q. State whether or not, as an outcome of that meeting, an advisory committee was appointed, who appointed it, and who were the members of it.

A. There was a very general discussion of conditions at that meeting, and as a result a motion was made, by whom I do not recollect, to appoint an advisory committee of five, with power to increase its membership or to appoint sub-committees, who should act as an advisory committee, to whom any one could go for advice or information in regard to the panic and the conditions that surrounded the steel trade at that time.

Q. Was there an advisory committee appointed?

A. Oh, yes; it was appointed.

Q. Who were the members of that committee?

A. Mr. William E. Corey, Mr. Powell Stackhouse, Mr. E. C. Felton, I was on it, Mr. Willis L. King, and one more.

Q. Do you know whether Mr. Schwab was then or at a later time a member of that committee?

A. Mr. Schwab was later a member of the committee. Mr. Schwab and Mr. Bailey were added to the committee later.

Q. What are Mr. Bailey's initials?

A. Mr. Edward Bailey, of Harrisburg.

MR. SEVERANCE: With what concern is he connected?

THE WITNESS: With the Central Iron & Steel Company, a plate concern at Harrisburg.

By MR. DICKINSON:

Q. Have you mentioned Mr. Gary as a member of that committee?

A. I do not believe I did. He was a member of the committee.

Q. Did you mention Mr. Felton?

A. Yes.

MR. SEVERANCE: You say Mr. Gary was a member?

THE WITNESS: Judge Gary, yes.

By MR. DICKINSON:

Q. State whether or not that general committee appointed sub-committees, and, if so, in what branch of the trade.

A. For the purpose of keeping in closer touch with the business, that advisory committee thought it best to appoint sub-committees covering the different iron and steel products, and they appointed those committees, covering practically every line of steel products made.

Q. Were you a member of any of those sub-committees?

A. As I recollect, I was the chairman of the steel bar committee, and possibly a member of one or two others.

Q. How about the structural material committee?

A. I think perhaps I was.

Q. And how about the committee on billets and sheet bars?

A. Yes; I was not the chairman, but I was a member of the committee.

Q. Who were the members of the steel bars committee?

A. I could only say from memory, Judge. I intended to bring along a list of all those committees that I had up at the office.

Q. I will mention some names, and you can say whether or not they were members.

A. Yes.

Q. I believe you said you were the chairman of a committee?

A. The steel bars committee.

Q. Was John A. Topping a member?

A. Yes.

Q. Was W. G. Park a member?

A. Yes.

Q. Representing the Crucible Steel Company?

A. Yes.

Q. Mr. Fred Krebs?

A. Yes, sir.

Q. State what company he represented?

A. The Cambria Steel Company.

Q. Now, let us come to the committee on structural materials. State whether or not Mr. Schwab, of the Bethlehem Steel Company, was a member of that committee.

A. I rather think he was chairman.

Q. Was Mr. Powell Stackhouse a member of that committee?

A. He was.

Q. He was from the Cambria Steel Company, was he?

A. He was president of the Cambria Steel Company.

Q. You have stated that you were a member?

A. Yes.

Q. How about E. J. Buffington, of the Illinois Steel Company?

A. I think he was.

Q. Now, the committee on billets and sheet bars: Do you recall who the chairman of that committee was?

A. No, sir; I do not.

Q. Do you remember whether Mr. Topping was or not, of the Republic Iron & Steel Company?

A. The committee on billets and sheet bars?

Q. Yes.

A. Mr. Topping probably was. He makes those articles.

Q. Was E. C. Felton a member of that committee?

A. Mr. Felton, I would think, was.

Q. And A. C. Dinkey?

A. Yes, sir.

Q. E. A. F. Clark, of the Lackawanna Steel Company?

MR. SEVERANCE: Do you know about these men? Do you carry all of these names in your mind, or are you simply assenting to what Judge Dickinson says, so that he is really the witness?

THE WITNESS: I do not, but I happen to know that he took a list of those names out of an article in the Iron Trade Review, giving those committees, which I intended to bring

down. I could not remember each individual member of the committees.

MR. SEVERANCE: That is what I thought. I thought you were not testifying.

THE WITNESS: Oh, no. I could not remember them all individually; but I have no doubt they are correct.

MR. LINDABURY: We may not have either; but the question is in regard to your memory of these names.

MR. SEVERANCE: We may not doubt that they are correct; but it is not proper to have you asked to assent as to a matter about which you do not know.

MR. COLTON: Then why did you not object before?

MR. LINDABURY: It is not agreeable to be objecting all the time because witnesses are being led. Instead of a witness being asked what he knows, he is asked if so and so is not the fact.

MR. DICKINSON: I want to ask Mr. King a question.

By MR. DICKINSON:

Q. I will ask you whether or not these names were shown to you, and whether or not you then stated to me that your recollection was that these were the members.

A. Yes.

MR. LINDABURY: I object. You cannot cross-examine your own witness, or inform him.

MR. DICKINSON: I think I have the right to do that in view of the suggestion that has been made. I have not attempted to help the witness out at all.

MR. SEVERANCE: You were not attempting to do it; you were doing it.

MR. DICKINSON: With a statement like that, I think I have a right to show that the witness gave me the impression that he did know.

MR. LINDABURY: There is no suggestion of any improper motive on your part, Judge, but it is a practice that is contrary to law, as we understand it.

By MR. DICKINSON:

Q. I will ask you if you remember, as a matter of memory, thinking it over now, yourself, independently of the

names that have been called off to you, who were the members of the steel bars committee. I think you have already said that you were the chairman.

A. Yes.

Q. Do you remember that?

A. I remember calling some meetings.

Q. Who were the members that attended those meetings, if you know?

A. I know who were likely to attend, Judge.

Q. Who were the members of the committee who were likely to attend, so far as you yourself now recall?

MR. LINDABURY: I object to that as speculative.

THE WITNESS: To ask me to give the exact names of those who attended a certain meeting—

MR. LINDABURY: (Interposing)) We do not criticise you at all, Mr. King. We simply want your recollection.

By MR. DICKINSON:

Q. Without regard to attendance—because I do not expect you to remember the name of each particular person who attended each particular meeting—state if you now know who were the members appointed to that committee of which you were the chairman?

A. To the best of my recollection, Mr. Topping, Mr. W. G. Park, Mr. Powell Stackhouse; and I feel sure there was some representative from the Carnegie Steel Company who was there, but I do not recollect who it was.

Q. Somebody from that company was a member?

A. Undoubtedly.

Q. State whether or not there was any plan or arrangement or understanding by which these subcommittees were to meet, prior to the Gary dinners; and, if so, where they would meet.

A. I do not recollect that there was any date fixed for those meetings. I do not think there was. The chairman of the subcommittee, as a rule, fixed the date. He called the meeting when he thought it was desirable.

Q. Are you speaking, now, of a meeting of the producers or the members of the committee?

A. The subcommittees appointed in these various lines. I say there was no fixed date for their meeting.

Q. You understand I am not asking, now, about any meetings of any producers, if any, held under the auspices of those committees, but in regard to the meetings of the committees themselves.

A. The advisory committee?

Q. The subcommittees.

MR. SEVERANCE: That is what he has already answered to. He said there was no date fixed for those meetings; that they were called by the chairman.

THE WITNESS: There was no date fixed for them.

By MR. DICKINSON:

Q. Did they meet?

A. Yes, they met a few times; I should say two or three, as I recollect. I speak more particularly of the bars committee, of which I was chairman, and charged with the duty of holding the committee meeting.

Q. State whether or not these meetings of the subcommittee preceded or followed the dinners that were given by Mr. Gary.

A. I think, as a rule, those meetings were called when it would be convenient for us all to be in New York, and that was probably prior to a general meeting of the manufacturers, or a Gary dinner, if you choose to call it that.

Q. State whether or not the subcommittees made any report to the general committee.

A. Only in a very general way, as to the stability or lack of stability of the market and what they had hoped to accomplish and had accomplished, perhaps, in the matter of meetings of these special committees with the manufacturers in those lines.

Q. Mr. King, were you at a dinner or luncheon given on February 18, 1909, in New York?

A. I was.

Q. Who was present at that meeting?

A. Most of the principal manufacturers of steel.

Q. Who presided at that dinner or luncheon—which was it?

A. It was a luncheon.

Q. Who presided at it?

A. I would say Judge Gary.

Q. If Judge Gary made any statement at that meeting regarding the future action of those who were there, state what it was.

A. Judge Gary stated, as I recollect, that the conditions were such that he felt the United States Steel Corporation might now act independently in the matter of prices; in other words, I took it from his statement that the effects of the panic had disappeared, and that the natural laws might go into effect.

MR. SEVERANCE: You do not mean that Judge Gary made that latter remark?

THE WITNESS: No; that is my impression.

MR. DICKINSON: That is all.

CROSS EXAMINATION,

By MR. SEVERANCE:

Q. Mr. King, were the proceedings of this luncheon which you have just mentioned taken down in shorthand by any stenographer?

A. I think so.

Q. And published?

A. Yes, sir.

Q. So that whatever Judge Gary said may be best shown by that report, rather than by your recollection?

A. Surely.

Q. You have had a copy of that report, have you not, and have read it since?

A. I looked for it the other day, but I did not find it. I have some reports of the dinners; a number of them.

Q. You have, however, had that report since the time of the meeting?

A. Oh, yes; I think so.

Q. And you have read it?

A. Yes, sir.

Q. You did not find anything in that published report that differed from your recollection of what was said, did you, when you read it over; it impressed you as being what you had heard there at the meeting, as a correct report?

A. Exactly; although I have not read it lately.

Q. I mean when you did read it?

A. I did not find anything wrong with the report, as I recollect.

Q. You did not find anything left out?

A. No, I did not.

Q. You did not find anything left out that had been said by anybody at the meeting?

A. I think not.

Q. Either by Judge Gary or by any one else?

A. No.

MR. DICKINSON: Will you give us a copy of that report?

MR. SEVERANCE: I shall try to find it. I have not got it with me.

By MR. SEVERANCE:

Q. Mr. King, you said that you had formerly been the treasurer of the structural material and plate pool?

A. Yes.

Q. And that the plate pool, as you remember, was formed in 1900, and the structural pool in 1897 or 1898?

A. Yes.

Q. You are certain, are you not, that both of those pools were formed previous to the organization of the United States Steel Corporation?

A. I am.

Q. And no such pool was formed, either structural or plate, after the organization of the United States Steel Corporation?

A. No, sir.

Q. And the pools continued as sort of hang-overs until about 1904?

A. Yes, sir.

Q. Is it not a fact that when these pools were abandoned

in the fall of 1904, as you have stated, the initiative of looking to the abandonment of such pools was taken by Judge Gary?

A. It was.

Q. And Judge Gary advised you and the other gentlemen connected with those pools that he had been advised by counsel in whom he had confidence that those associations were in violation of the Sherman Law?

A. Yes, sir.

Q. That is a fact, is it not?

A. Yes, sir.

Q. And you also took the advice of counsel on that same subject?

A. Yes.

Q. And were advised that those pools were unlawful under the Sherman Act; is that right?

A. Yes, sir.

Q. Now, you say that after those associations were wound up, you continued with some of the same gentlemen who had been members to have meetings from time to time?

A. Yes, sir.

Q. At which you discussed trade conditions and the state of the market and prices prevalent, and the prices that you gentlemen, each speaking for himself, regarded as fair and proper market prices under existing conditions?

A. Yes, sir.

Q. That is a fact, is it not?

A. That is a fact.

Q. You had been carefully advised, and endeavored, to the best of your belief, and did to the best of your belief, conduct your business, after the dissolution of those associations and pools, in an entirely lawful manner, did you not?

A. I do not believe I could say that that was so until, say, 1907; but I am very well satisfied that nothing possible was done that would interfere with any act or law after 1907.

Q. That was 1907?

A. Yes.

Q. And between 1905 and 1907 you were endeavoring to

follow out the advice of counsel, as you understood it, but you were not entirely certain that you did it in all respects?

A. That is correct.

Q. That is all you intended to say in answer to Judge Dickinson?

A. Yes, sir.

Q. But from 1907 on, you are entirely satisfied that every act that was done by you and every other man in the business, so far as you know, having regard to this subject that is under investigation here, was done in a lawful and proper manner, as you were advised by counsel?

A. That is my belief.

Q. And if you made any mistake you did not intend to do so?

A. That is right.

Q. At these meetings that you have mentioned, in which these different gentlemen were present, there was some one representing the Lackawanna Company?

A. Yes.

Q. I am speaking of meetings that followed the dissolution of the pools and the associations of 1904, from that time on.

A. Yes, sir.

Q. And there was some one representing the Cambria?

A. Yes.

Q. And the Pennsylvania Steel?

A. No; they did not make structural and plates.

Q. They did not make structural and plates?

A. They made them for their own bridge work, but they did not sell in the market.

Q. Bethlehem?

A. Bethlehem, yes.

Q. Jones & Laughlin?

A. Yes.

Q. Carnegie?

A. Yes, and Illinois.

Q. That is all?

A. You are speaking of the structural and plates?

Q. Yes.

A. Of course, there were plate manufacturers who were not structural manufacturers.

Q. Then there were certain others, in addition, who met in the meetings, concerning plates?

A. Yes, sir.

Q. Is it not a fact, Mr. King, that at those meetings it was thoroughly understood and stated that you gentlemen there present could not agree with each other upon prices that you would charge for your product?

A. You are speaking now about subsequent to or before 1907?

Q. Either one.

A. Well, as I have testified and told you, that was the plan upon which we tried to operate after the formal association, but I did say that I did not think that that was at all times adhered to; but subsequent to 1907 what you say is exactly true.

Q. Then, beginning with the meetings you had in 1907—

A. (Interposing) They were really in 1908.

Q. Yes, after the first Gary dinner. That is what you refer to now?

A. Yes.

Q. You understood thoroughly, every man there understood thoroughly and acted upon that understanding, that he could not lawfully agree with the other gentlemen present upon the prices that they would make and maintain upon their goods; is not that a fact?

A. I heard that stated, and I stated it myself at every meeting I was at.

Q. When you went out of that meeting, so far as any agreement with all the people in the meeting was concerned, you could cut your price the next day or that afternoon, could you not?

A. Yes, I could.

Q. And the reason why you felt that before doing that you should notify the other gentlemen that you were going to do it, was simply a matter of common decency, because you had made a statement in the meeting as to what you proposed to do?

A. Yes, that was particularly true, because as chairman of the bar committee, I would undoubtedly have felt that I should notify them if I cut the price.

Q. That is, you felt it was a matter of common decency that you should do it, although you were under no agreement that you should do it?

A. That is true.

Q. In the complaint of the Government in this case there is the following statement, which I will read to you. This statement follows under allegations concerning combinations between competitors. The allegation is as follows:

“It is not here alleged that merely assembling and mutually exchanging information and declaration of purpose amounts to an agreement or combination in restraint of trade.”

Now, did you at those meetings held subsequent to the Gary dinners, do anything over or beyond what is there stated?

A. We did not; at least, at the meetings that I attended. I did not attend them all, however. It is only fair to say that.

Q. You understood, did you not, to use the language of the complaint, that a declaration of purpose on your part made to these other gentlemen present that you intended to charge a certain price for your product was an entirely lawful thing for you to do, did you not?

A. Our lawyers so advised us.

Q. Neither you nor any man in any meeting that you attended, so far as you know—and I ask you to testify only to what you know—so far as you know, no man went any further than what I have just read to you from this bill of complaint?

A. You are speaking about the subcommittees?

Q. Yes.

A. That is correct.

Q. From 1907 on?

A. So far as I know, that procedure was followed.

Q. We will now leave the meetings that you attended subsequent to the Gary dinner in 1907, and go back to the period from 1904 to 1907, during which period you have expressed

some doubt as to whether you have kept strictly within the advice given you.

A. Yes.

Q. Let me ask you this: When was the first meeting held, if you remember, of either manufacturers of structural or plates, after the dissolution of the pools or associations?

A. I could not possibly tell you that. I might say, further, that all papers in regard to those meetings that I had were destroyed when we moved from our old office into our new office, so I have no absolute record of dates, and I could not answer your question.

Q. You do not know when it was, then? You say that the pools and associations were broken up in the fall of 1904?

A. Yes.

Q. Would you say that you had any meetings with these other gentlemen during that year, or was the first meeting in 1905, according to your best recollection?

A. Probably early in 1905.

Q. Can you tell who were present at that meeting?

A. Only in a general way the same people.

Q. In a general way, the same people?

A. Yes.

Q. What did you do at that meeting?

A. Well, we had been advised that our former procedure was illegal, and we started off, I think, with the idea that we would not want to do anything illegal, and would keep within the strict letter of the law, and our procedure was as you have read there out of that case; that was the procedure we started out with, but I think as time went on—in other words, if one of those lawyers had been at those meetings I have no doubt he would have found out that we said some things that were not in accordance with that.

Q. Well, what was it you said that was not in accordance?

A. Well, probably somebody said, "Now, we will agree to that."

Q. That is speculation. I asked for your recollection. I do not ask you as to something that might probably have been done. Can you remember the name of any person at

any one of those meetings between 1905 and 1907 who stated that he would agree with the others upon a price?

A. No, I cannot remember.

Q. You never did it yourself, did you?

A. I do not think so.

Q. Did you not, as a matter of fact, when you went into those meetings, first take up the demand for your products, or was not that taken up in the meeting?

A. That is usually the basis of the discussion, the amount of the demand.

Q. And where the orders were coming from, the part of the country, and where the demand was found; is that so?

A. Of course, we never went into particulars as to the customers.

Q. The talk was general?

A. General, altogether.

Q. And then the question, I suppose, came up as to whether the demand was exceeding what you could manufacture?

A. Yes.

Q. I understood you to say that during 1906 and 1907, up to the panic, the pressure was all the other way; that is, there was a tremendous demand, and the actual result, to use your expression, the expression you used a while ago, that if you lost your heads and exacted bonuses for quick delivery, prices would have gone out of sight and stopped business; that was the idea?

A. That is true.

Q. You got together and talked about conditions?

A. Yes.

Q. And each one advised with the others as to what, in his opinion, was the wise thing to do?

A. Yes.

Q. That is true, is it not?

A. Yes, sir.

Q. And is not that all you did, in substance? There were a lot of details, but was it not in effect simply that you gave your opinion as to what was the wise and good thing to do, and somebody representing the Carnegie Company did the

same thing, and others representing other companies did the same thing, and you did not always agree as to what would be the wise thing, but you discussed it together?

A. Yes.

Q. Is not that true?

A. Yes; but before we left there probably was a consensus of opinion as to what the market price was.

Q. Up to your meeting, had not you been selling at substantially the same price?

A. Yes, up to that meeting.

Q. As a matter of fact, the current prices for steel products are pretty well known?

A. Yes.

Q. They are published right along?

A. Yes.

Q. Taking the subsidiary companies of the Steel Corporation, they publish market prices right along?

A. They do, by circular; yes.

Q. That is what I mean; they are published by circular. Now, there are trade papers in existence in this city and Cleveland and New York, and various places, are there not, that have men right on the ground all the time, keeping in touch with the market?

A. Yes.

Q. And they publish every day and every week the fluctuations of the market.

A. Yes.

Q. And state in dollars and cents what the market price is?

A. Yes.

Q. So that there is naturally more or less, in fact more than less, of uniformity in the prices of standard products—not specialties, but standard products?

A. That is true.

Q. So, when you gentlemen came together to discuss prices, you did not come together to discuss a lot of specialties, but you were talking about the general demand for these large items of production, like bars and plates and

staple products which were quoted every day in the trade papers?

A. Yes; of course, the different meetings considered more especially the particular products that they manufactured—

Q. I understand that, but those meetings, those committees that met—

A. (Interposing) After 1907?

Q. No, after 1904.

A. Oh.

Q. Perhaps the word “committees” is not a good word, but the gentlemen representing the manufacturers who met at times discussed the steel trade?

A. Yes, sir.

Q. The matters that were under discussion were the structural products and steel plates and bars, and all that sort of thing, staple articles that were quoted regularly in the trade journals?

A. Yes.

Q. And there was, perhaps not well defined, but in effect, a market price for those things, was there not?

A. Yes, sir.

Q. Depending upon the law of supply and demand?

A. Largely.

Q. I mean after the pools were done away with.

A. Yes.

Q. Is it not a fact that during the time that you were trying, as you stated it a while ago, to keep the prices from going too high, is it not a fact that during that time all that you did in those meetings was to get together and discuss the question, and each man for himself point out why in his opinion it was inadvisable to let prices go higher, if you felt that way, and prevent the tremendous rise which would have destroyed the whole trade?

A. As a matter of fact, the larger concerns were strictly in favor of holding prices down to a reasonable basis, and they had to argue with the smaller concerns, who would have liked to have had higher prices temporarily.

Q. The smaller concerns, you say, wanted to take advantage of the situation and get much higher prices?

A. Yes.

Q. You stated, in answer to Judge Dickinson's question with reference to the reputable and disreputable companies that were doing business, that the smaller companies were the ones that did not maintain the prices talked over?

A. I would hate to put them in the disreputable class.

Q. I am quoting his question—

MR. DICKINSON: No; I never referred to them as disreputable.

MR. SEVERANCE: No; you asked him to differentiate between the reputable and other companies.

By MR. SEVERANCE:

Q. That is what you meant, that there was a constant feeling on their part; that is, the small producers, that they wanted to take advantage of the situation?

A. That is true.

Q. Right there, has it not been your experience in the last ten years, since the Steel Corporation became so large and a number of others so large, that on a rising market the last producer to go up, as a rule, is the big producer?

A. Generally speaking, I think that is true. There may be exceptions.

Q. But as a rule, I say, that is a fact?

A. Yes, sir.

Q. Is it not a fact to-day that with the great demand that exists for steel that the large concerns like Jones & Laughlin and Carnegie are selling their products at a lower price than some of the smaller competitors?

A. Yes, that is true.

Q. I was asking you a short time ago if you could tell me what particular thing you did in these meetings, between 1905 and 1907, which was not certainly within the limitations of that paragraph in the complaint that I read, and I understand that you cannot name anything.

MR. DICKINSON: He has not said that he could not.

A. Well, Mr. Severance, we started out, I think, with the proper idea of what we could do at those meetings. All I

say is that in that interim there may have been times when people said some things which perhaps were not contemplated in that language there.

By MR. SEVERANCE:

Q. That is, there is a possibility that that is so, but you cannot recollect such a circumstance, and cannot name a man that said anything of that kind, can you?

A. I could not just at the moment, no, but I——

Q. (Interposing) It was some individual in the meeting. That is all you mean, is it not—that some individual in the meeting might have said something and you have a sort of recollection that some individual may have said something that was not entirely in consonance with that language?

A. I might say in reply to that that a layman perhaps does not see the legal point, or would not see a legal point, as well as a lawyer who might be sitting in the room and hearing everything that was said. I do not mean that there was any general disregard of law there, but there possibly might have been things said that would not have been in accordance with the letter and spirit of the law.

Q. That is to say, you say it is possible that some person in that meeting may have made some remarks of that kind in the meeting?

A. Yes, some one, or more.

Q. But as to who did it, if anybody did it, you can not tell?

A. I cannot recollect now, no.

Q. And you cannot name anyone who said any such thing, or any date that any such thing happened?

A. No.

Q. Or any agreement that was ever arrived at in violation of those instructions?

A. No.

Q. So it is a rather hazy impression you have, more than anything else?

A. I am perfectly satisfied that after 1907, as far as I was concerned, there was no deviation from the strictly legal interpretation that you read there.

Q. And after the time, before that, concerning which you

testified in answer to Judge Dickinson, you are unable to give us any names of any person or persons who said anything or did anything or agreed to anything in violation of the instructions you received, or different from what I have read to you from the complaint?

A. No, I cannot give you a particular instance of that.

MR. SEVERANCE: I desire to go into another subject now, and as it is within three minutes of our usual time for taking recess, I will ask that an adjournment be taken at this time.

(Thereupon, a recess was taken until 2:00 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

WILLIS L. KING,

the witness on the stand when the recess was taken, resumed the stand for further cross examination.

CROSS EXAMINATION (Continued).

By MR. SEVERANCE:

Q. Mr. King, how many years did you say you have been in the steel business?

A. Over 40 years; 43 years, to be exact.

Q. And all that time you have been with the Jones & Laughlin Company?

A. Yes, sir.

Q. And will you kindly state in what capacity you have been engaged?

A. I entered as a boy of 18, and was a kind of a general roustabout for a while. I went through the various departments, shipping and invoicing, and finally landed in the sales department.

Q. How many years ago did you get into the sales department?

A. I should say it was over thirty years, or about thirty years. You can understand at first I was not a very important factor. A boy never is, you know.

Q. About thirty years ago you went into the sales department?

A. I would think it was about that, yes.

Q. Who was the head of the sales department at that time?

A. Alexander Laughlin, Jr., a man who has since died.

Q. Up to what time did he continue the head of the sales department?

A. I would say up to 1874 or 1875, when he died; and then Major Laughlin took his place.

Q. How long did he continue at the head of the sales department?

A. I would say—well, up to 1890. He has only been dead a few years. 1894 or 1895.

Q. What was your position at the time Major Laughlin was head of the sales department?

A. I was secretary of the company.

Q. That was your title?

A. Yes.

Q. What were your duties, as far as sales were concerned?

A. My duties were to sell the product under his general direction.

Q. So that for quite a number of years, from the time Major Laughlin went in as the head of the sales department you were next in rank in that department, were you not?

A. Yes, sir.

Q. And that dates back to what year?

A. I think about 1895, from memory. I am not clear on that, exactly.

Q. From your knowledge of the business—the selling end of it I am speaking of; the commercial end—what would you say was the practice and custom of your concern and other steel manufacturers as to entering into pools and associations back in the 80's and 90's?

A. I have told you the pools that we entered into and practically all the manufacturers in those particular lines went into them.

Q. You spoke of certain pools that originated in the late nineties?

A. Yes, sir.

Q. There had been pools before that and associations before that, had there not?

A. That is true.

Q. Did they date back as far as you had any knowledge of the steel business?

A. Yes, I think they did.

Q. And, by tradition you know they dated back further?

A. Yes.

Q. Is it not a fact that the first time in your knowledge of the steel business that pools or associations of that character were done away with was late in the year 1904, when, as you say, Judge Gary took the initiative in doing away with the structural pool?

A. In reply to that I would say that those pools generally died a natural death in time; not always for the same reason that this particular pool did; it was stopped on account of Judge Gary.

Q. Since then there has been no pool?

A. No pool whatever.

Q. Have you ever known any time, in your knowledge of the business when, as long a period as eight years, from 1904 to 1912 existed without pools or associations of that character of some sort until the present?

A. I do not think so. I think there were always organizations of that kind, more or less.

Q. Just recurring, for a moment, to the meetings that you held after the dissolution of the association in 1904: You stated this morning, quite at length, that different gentlemen came together in those meetings and they were representatives of your company and of the Cambria, the Lackawanna, Illinois and the Carnegie Company and others. What was the fact, in those meetings, as to whether they were dominated by either the representatives of the Carnegie or the Illinois Steel Companies?

A. I could not say that they dominated the meetings.

Q. Is it not a fact that a stable market price cannot be

maintained unless each one of the large manufacturers maintains that price? That is, if one of them makes a lower price, that would bring the market down, would it not?

A. That is true.

Q. There was no time, from 1904 on, was there, when Jones & Laughlin, by putting in a lower price than the current price for any of these steel products, could not have broken the market?

A. No.

Q. The same is true as to the Cambria Steel Company, is it not?

A. I think it is true of any fair-sized concern; depending, of course, somewhat, on the character of the market. If it was unduly strong, as sometimes happens, it would not have so much effect.

Q. I am not speaking of those runaway bull markets. I am talking about the ordinary market.

A. The normal market.

Q. Yes.

A. Yes.

Q. When you gentlemen got into these meetings—I am now speaking of the time from 1904 to 1907—each gentleman stated his knowledge, did he not, of the situation of the trade?

A. Yes.

Q. If anybody suggested that they thought the price of steel products should be lower, or if anybody suggested that the price should be raised, that the market conditions would justify it, that subject was discussed, was it not, and each man stated his individual views?

A. Yes.

Q. And each one argued with the others to enforce his views on them, and to get them to become satisfied that his ideas were correct?

A. That is true.

Q. And there was no vote taken, or anything like that?

A. No; I do not recollect of any vote.

Q. The existence of the United States Steel Corporation, which had two subsidiary companies at these meetings, did not result in the United States Steel Corporation domi-

nating those meetings as against you, the Cambria, and all these other big companies, did it?

A. I think those meetings would have continued if those companies had been separate organizations.

Q. There would not have been any difference, so far as that is concerned?

A. I think not. They had before.

Q. And they were carried on, the representative of each company making his own arguments, just the same?

A. Yes.

Q. Is it not a fact that in those meetings the representatives of the Steel Corporation subsidiaries did not go to the front and enforce their views, but did not you and the other gentlemen representing the other independent companies take a more prominent part in the meetings than they did?

A. I could not say that, but the representatives of those two large companies named did not in any way try to force their views on the balance.

Q. At those meetings there were no threats made; there was no appeal to anything but the reason of the gentlemen present, was there?

A. No; there were no threats.

Q. There was a fair discussion of what you thought was best for your business?

A. Yes, sir.

Q. You were not there as the guardian of any other business but Jones & Laughlin?

A. I represented them first.

Q. One thing I neglected to ask you before is: The Jones & Laughlin Company is absolutely independent of the Steel Corporation, is it not?

A. Entirely.

Q. That is what you might call a family company, is it not?

A. Yes, sir.

Q. And always has been?

A. And always has been.

Q. You spoke, in answer to Judge Dickinson this morning of tie plates. They are not always made of steel, are they?

A. Sometimes they are made of iron, in Chicago, I think.

Q. Is it not customary to make them of malleable iron?

A. Those were more of a chair than a tie plate. They were the first evolution of supporting the rail on a tie.

Q. Are you not aware of the fact that, within the last three or four years, they have been used to a large extent in the west?

A. Malleable ties?

Q. Yes.

A. I did not know it. It is altogether possible.

Q. You stated that at these meetings, held in 1906 and 1907, an effort was made to keep down prices?

A. Yes, sir; that is true.

Q. That was done simply by these arguments, this reasoning with each other as to the ultimate effect being bad of letting the market run away, was it not?

A. Yes.

Q. That was it. Each gentleman who held the view that the public should not be charged higher prices for the product tried to enforce that view upon the others?

A. That is true.

Q. And some of them did not agree to it, and some of them charged higher prices?

A. I do not know that it was altogether philanthropic. We thought it would have a better effect and the result would be better in the end if we did not let prices go up.

Q. You felt that if there was a tremendous rise it would check the demand for your products?

A. Yes, sir.

Q. But, as a matter of fact, you simply presented that, you who thought that way, presented that at these meetings of the manufacturers as a good reason why you should not raise prices?

A. That did not prevent some of the smaller concerns from asking premiums, though.

Q. And they did it?

A. They did it.

Q. So there was no agreement that they would not charge higher prices, but you were trying to keep them from doing it; that was your attitude?

A. That was our attitude, yes.

Q. And so far as you individually were concerned, you did not put up prices?

A. We did not ask premiums.

Q. And some of the others did not, but some did?

A. That is true.

Q. That was about the net result of these conferences held in 1906 and 1907?

A. In 1906 and 1907, yes.

Q. Take these committees that were appointed subsequent to the first Gary dinner, so-called. You spoke of being the chairman of one of the committees.

A. Yes.

Q. And Mr. Schwab, I think you said, was chairman of one?

A. Yes.

Q. He was president of the Bethlehem Company, was he not?

A. At that time; yes, sir.

Q. And who were chairmen of the other committees? Mr. Topping, I think you said, was chairman of one committee?

A. Yes, I think he was chairman of the committee on billets and sheet bars.

Q. He was president of the Republic Iron & Steel Company, was he not?

A. Yes.

Q. As a matter of fact, do you recall that the representatives of any of the Steel Corporation's subsidiaries were chairmen of any of those committees, or were they so-called independent manufacturers?

A. My recollection is that Mr. Corey was the chairman of one committee.

Q. What committee?

A. The committee on ore and pig metal, possibly. Have you got that list? (Addressing counsel for the United States.)

Q. Outside of that, as a rule, the chairmen of those committees were independents?

A. I believe that is true.

Q. And the meetings of these sub-committees were called by their respective chairmen when they deemed it proper?

A. Yes, sir. Have you not that printed list there? Let me refresh my recollection.

MR. COLTON: It is for them to determine whether you should see it.

THE WITNESS: That is printed in a public journal. That publication is really what I depend on largely as to what I am testifying. I cannot remember everything.

MR. LINDABURY: Our friends have shown it to you before, have they not?

THE WITNESS: Oh, I have a copy. Well, as far as I know, the list in this printed publication is correct. Mr. Penton of the Iron Trade Review, who wrote this article, was at the dinner.

By MR. SEVERANCE:

Q. Suppose you read the list of the chairmen.

A. Ore and pig metal, chairman W. E. Corey; billets and sheet bars, chairman John A. Topping, Republic Iron & Steel Company; committee on rails and billets, chairman E. C. Felton, Pennsylvania Steel Company; structural material, C. M. Schwab, Bethlehem Steel Company; plates, chairman Powell Stackhouse, Cambria Steel Company; steel bars, chairman Willis L. King.

Q. That is the gentleman who is on the witness stand?

A. Yes.

Q. Of Jones & Laughlin?

A. Yes. Committee on pipes and tubular goods, W. B. Schiller, National Tube.

Q. That is a subsidiary of the Steel Corporation?

A. Yes. Sheets and tin plate, chairman I. M. Scott, La Belle Iron Works. As I recollect, Mr. Campbell, whom you examined the other day, took Mr. Scott's place for some reason. Here is another corporation subsidiary company: Wire products, chairman W. P. Palmer, American Steel & Wire. That is all.

Q. That is the list, is it?

A. Yes, that is the list.

Q. You testified in answer to Judge Dickinson this morning as to the steel product which had the largest tonnage, that that product was bars. Is that correct?

A. Yes, bars.

Q. Who was chairman of that committee?

A. I was.

Q. You were asked this morning with reference to the so-called Gary dinner at the time of the panic, and there were some subsequent dinners that were denominated Gary dinners, were there not?

A. Yes.

Q. Is it not a fact that neither at first nor at any other Gary dinner was any agreement made between the persons present or any of them, as to prices?

A. That is absolutely true.

Q. As a matter of fact, Judge Gary in his opening remarks, and at other times, advised the gentlemen present that there could not be any such agreement, express or implied, did he not?

A. That is true.

Q. And that he himself would not, under any circumstances, enter into any agreement of that character?

A. He did.

Q. That was his invariable attitude, was it not?

A. Yes.

Q. What was the annual production of Jones & Laughlin in 1901, the year the Steel Corporation was organized?

A. About 500,000 tons.

Q. What is the present annual production of Jones & Laughlin?

A. About three times that—about one million and a half.

Q. What is your total capacity?

A. We are running to our capacity now.

Q. Have you not a capacity in excess of a million and a half?

A. Yes, slightly in excess. If everything is running well, I think we would have a capacity of 1,800,000 tons a year.

Q. And you have increased that much since 1901—from 500,000 to 1,800,000?

A. Yes. Well, that is an ideal capacity.

Q. Well, say from 500,000 to a million and a half.

A. I think that is fair.

Q. During that time have you not been in competition with the Steel Corporation, either the whole time or the latter part of the time, as to practically everything except steel rails, heavy steel rails?

A. Do you mean to ask whether we sell in competition——

Q. Sell in competition with them, yes.

A. Yes, that is true.

Q. The only steel product in which you do not come in direct competition with the Steel Corporation is heavy rails, is it not?

A. And pipes—tubular goods.

Q. Outside of that you are meeting their competition every day?

A. It is only fair to say that it is only within two years that we have made tin plate and wire products.

Q. But for the balance of the time you have met their competition in other lines, outside of the ones you have named?

A. We have sold in competition with them, yes.

Q. During that same period, have you known something of the development of the Bethlehem Steel Company?

A. Yes, sir.

Q. What has been its history in general; has it grown or not?

A. It has grown materially.

Q. Do you happen to know how much, Mr. King?

A. It would only be a guess. Considerably, though. As a matter of fact, the original Bethlehem Company made nothing but rails. Mr. Schwab has gone into a great number of products besides rails; for instance, armor plate.

Q. They make practically everything down there now, do they not?

A. Yes—structural.

Q. Armor plate?

A. Yes. I hardly think you could put bars as a large part of their product. They do not make many bars. They make

rails and armor plate, and a very high class of steel bars, such as are used by automobiles and other fine machinery.

Q. They have met the competition of your company and the subsidiary companies of the Steel Corporation?

A. Yes.

Q. All the time, and are doing so to-day?

A. Yes.

Q. What do you say as to the Pennsylvania Steel Company, as to its comparative size now and in 1901, taking the Sparrow's Point plant and the other together?

A. Generally speaking, I would say that every one of the large companies has increased its capacity for production in that time.

Q. Do you know about the Inland Steel Company?

A. Yes.

Q. Where are they located?

A. Near Chicago.

Q. Has that increased very much in size?

A. Very materially.

Q. A good many steel plants of one sort and another have come into existence in the last few years, have they not?

A. Yes. The Youngstown Sheet & Tube I think is one of the larger recent concerns.

Q. During the eleven years since the Steel Corporation has been in existence, what do you say as to whether the competition that you met with on the part of the Carnegie Company and the Illinois Steel, or any of the subsidiary companies of the Steel Corporation, has been fair, open and above-board?

A. That is, you mean the competition of the Corporation, as against the Carnegie and Illinois—

Q. No, as against you. I say, what do you say as to whether the competition of the subsidiary companies of the Steel Corporation as against Jones & Laughlin has been fair, open and above-board competition?

A. I think that is true, yes.

Q. How is that?

A. I think that is true.

Q. So far as you know, their practices in competition with

all of the outside companies have been fair, open and above-board?

A. To my knowledge they have, though I suppose you would find somebody that would say differently, perhaps.

Q. That is, so far as you know?

A. Yes.

Q. Your supposition is merely a guess that somebody might be disgruntled, or something of that sort; you do not have any personal knowledge of any such thing?

A. Oh, I have heard it—

Q. You have heard people complain?

A. In a way that perhaps was not justified, that before the formation of the Steel Trust there were independent concerns that had no steel plants, who bought the semi-finished material and rolled it; and I have heard people say that it was not as easy to get it, at times, from the Corporation as formerly; but I also would say that at the time of these complaints it was a period of great demand, and my diagnosis of that was that the Corporation needed that material for their own purposes, their own finishing mills.

Q. And that, to the best of your belief is the explanation of any such complaint?

A. As far as my knowledge goes that would be a fair explanation, although I do not pretend to know the particular cases or the conditions.

Q. You sell steel in the market, do you not, to other manufacturers?

A. Raw steel? That is, semi-finished?

Q. Yes.

A. Practically none, for some years. Our finishing capacity has gotten up to our full steel capacity.

Q. But, for a number of years after the Steel Corporation was organized you did?

A. Oh, yes; to a limited extent.

Q. Mr. King, it has been suggested by one or two witnesses here, on their examination by counsel for the Government, that Jones & Laughlin and other independents could be put out of business by the Steel Corporation if it saw fit to attempt to do that. Do you coincide with that opinion?

A. I never felt that there was a great deal of danger of that.

Q. You do not agree with that, do you?

A. No; I do not.

MR. SEVERANCE: That is all.

REDIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. King, you were asked about the testimony as to the power of the Steel Corporation to put its competitors out of business. I understood you to answer that you did not regard that there was much danger from that. I will ask you whether, in expressing that view as to the danger, you were expressing your opinion as to the power of the Steel Corporation to do that, or whether or not that power could, in the present state of public opinion, be exercised effectively that way?

A. I do not think it would be good policy for them to attempt it, if that is what you mean.

Q. That is not exactly what I mean. I wanted to know what you had in your mind when you said you had not felt any danger of it.

A. I should have limited that to some extent. When I said I did not think there was particular danger of the corporation forcing other manufacturers out of the business, I referred particularly to a few of the larger and stronger companies. They could, undoubtedly, cripple and perhaps stop, if they were so inclined, companies who have not a particularly large capital or a source of supply in ore and pig metal; but I think it would only be temporary. My experience is that a company never dies in the steel business. As soon as one set of men fail, there is always another set ready to take it up; so that it would be a continuous performance, if the corporation tried it.

Q. But it would be death to those fellows who went out of business, would it not?

A. Yes; that is true.

Q. If you should hear Mr. Gary, with his knowledge of

the corporation and its potentialities, and its transportation and its business connections, state that the corporation could put its competitors out of business, would you give much or little weight to such an opinion expressed by him.

MR. LINDABURY: I object to that, as intended to suggest the answer, and to lead counsel's own witness. I suppose it is the opinion of this witness and not Judge Gary that is wanted. I suppose that the witness has an opinion of his own, and does not borrow his opinion from anybody else.

MR. DICKINSON: That is not the question.

MR. LINDABURY: I object further because it does not appear that Judge Gary has ever said that.

MR. DICKINSON: I will say that I expect to prove that he has.

MR. LINDABURY: A long time ago, before Congressional investigations.

MR. DICKINSON: When he was under oath.

MR. LINDABURY: A great many things have happened since then. We have learned a good deal; all of us.

THE WITNESS: I think that.

By MR. DICKINSON:

Q. Answer the question, please.

(By request the stenographer repeated the question referred to, as follows:)

“Q. If you should hear Mr. Gary, with his knowledge of the Corporation and its potentialities, its transportation and business connections, state that the Corporation could put its competitors out of business, would you give much or little weight to such an opinion expressed by him?”

A. I will say that if Judge Gary said that deliberately, he believed he could when he said it.

Q. Now please go further and state, from your knowledge of Judge Gary and his knowledge of the affairs and powers of the corporation, if you heard him make a statement of that kind, would you give it little or much weight.

MR. LINDABURY: I object. I object to that as altogether improper.

MR. SEVERANCE: I suggest that it is in the nature of cross examination of counsel's own witness.

By MR. DICKINSON:

Q. Mr. King, do you know any man who has a larger acquaintance with the iron and steel business of this country, and a more comprehensive knowledge of it and the powers of those engaged in it than Judge Gary? Do you know of any other one man that knows more than Judge Gary in regard to those matters?

MR. SEVERANCE: I make the same objection, that the question is in the nature of cross examination of counsel's own witness, and incompetent and immaterial.

MR. DICKINSON: It is examination; not cross examination.

MR. LINDABURY: It is an attempt to get this witness' opinion by telling him what the opinion of somebody else in the steel business is, or is supposed to be, or may be or may have been some time or other.

MR. DICKINSON: No; it is an attempt to get this witness' opinion of the weight that he would give to a statement made by Judge Gary of that character.

MR. SEVERANCE: And what does that prove, supposing you got it?

MR. REED: It seems to me that you should at least state when it was supposed to have been made.

THE WITNESS: I would say that I would give a great deal of credence and consideration to any statement Judge Gary made.

MR. LINDABURY: And then probably you would form your own opinion in the end?

MR. DICKINSON: Naturally. Most men of independent mind do; just as we shall do, respectively, about the importance of the question under discussion.

By MR. DICKINSON:

Q. Mr. King, you were asked about the competition by the subsidiaries of the corporation. Do you claim to have an intimate knowledge of all the details of competition, so as to enable you to speak generally, of your own knowledge, as to whether it has been fair?

A. Only as it affected our company. I would not like to make that statement as to various other companies.

Q. Then you confine what you have said on that to your knowledge of the competition with your company?

A. Yes.

Q. You were asked about whether or not through this period of the increase of your company, your company had been a competitor of the Corporation. I will ask you whether that competition has been in prices, or whether or not substantially, through that period, your company and the Corporation have sold at the same prices.

A. Generally speaking I think the market price was fairly uniform, varying with the cost and the demand.

Q. Did or not your company and the subsidiaries of the United States Steel Corporation during that period sell at substantially the same prices?

A. Yes, sir; that is true. There is always a market price, and if you have got a market price, you have to meet it, if you want business, Judge.

Q. You said that there was no agreement as to prices reached at these meetings subsequent to 1904. Now, I will ask you whether or not the understanding reached at those meetings, such as you have described in your direct examination effected substantially the same results, so far as observing prices is concerned, as the former agreements that you made under the old association.

MR. SEVERANCE: That is objected to as asking for a conclusion, and as speculative.

Let me see if I understand the question. You mean that the meetings held subsequently to 1904 effected the same result as the pools or associations that ran up to that time, with penalties and all that?

MR. DICKINSON: So far as observing prices is concerned.

(By request the stenographer repeated the pending question, as follows:)

“Q. I will ask you whether or not the understanding reached at those meetings such as you have described in your direct examination effected substantially the same result, so

far as observing prices is concerned, as the former agreements that you made under the old association."

THE WITNESS: I do not think, Judge, we had a fair comparison in those two periods as to the actual operation of those first pools or meetings; because, during the most of the meetings subsequent to 1904, the effort, as I have told you, was to keep prices down; but the effect of those meetings was to establish, in some way, a market price that was fairly uniform.

By MR. DICKINSON:

Q. And observed by all those who were participating?

A. No, sir; it was not observed.

Q. I did not mean that it was observed, but to be observed.

MR. LINDABURY: Observed by all those who did observe it?

MR. DICKINSON: No; to be observed by those who participated in the meeting.

THE WITNESS: There was no reason why a man should observe that price unless he wanted to.

By MR. DICKINSON:

Q. Was there a moral obligation, as you understood it, to observe it?

A. I would feel so myself, personally, but—

Q. You do not—

MR. SEVERANCE: I insist that the witness be permitted to finish his answer.

MR. DICKINSON: I had no intention of preventing him from finishing his answer.

MR. SEVERANCE: He had started his answer, and you were not satisfied when he commenced with "but."

MR. DICKINSON: I did not intend to stop him.

MR. LINDABURY: The witness said he felt under a moral obligation, "but," and was about to proceed.

THE WITNESS: But it did not appear that all the others did.

By MR. DICKINSON:

Q. You mean it did not appear by their subsequent action?

A. I mean that the prices were not maintained.

Q. They were not maintained?

A. There was a constant dropping in prices.

Q. They were not maintained by all of them?

A. Not by all of them.

Q. What I am trying to get at is: What was the understanding that you reached—

MR. LINDABURY: I object. The witness has said there was no understanding, more than a dozen times. He has again and again, on cross examination and direct examination, said that there was no understanding.

By MR. DICKINSON:

Q. I will ask you whether or not at those meetings there was an understanding reached by this concurrent announcement of prices, and each relied upon the other that that price would be observed.

MR. LINDABURY: That is objected to as leading. He could not know what was in the minds of the others, and could not know what the others relied upon. He knows what was said, and that is all he could know. You have no right to ask him—

MR. DICKINSON: Oh, yes, I have the right.

MR. LINDABURY: You cannot ask him what was in the mind of another, unexpressed.

MR. SEVERANCE: Particularly as he says the others did not maintain the prices talked about at the meetings.

MR. LINDABURY: He said he did not agree to anything.

THE WITNESS: If I may say so, Judge, the object of those meetings was to steady the market price, either up or down. We thought we were doing it in a legitimate way. It was to get a stable and reasonable price.

By MR. DICKINSON:

Q. Did you expect, so far as you were concerned, to do your part in getting a stable price by announcing a price concurrently with the others, and did you expect the others to rely upon your maintaining it?

A. I think they did rely on me.

Q. They did? Did you rely on them, or most of them?

A. Yes; on most of them.

Q. You spoke of these meetings having in contemplation the observing of prevailing prices. What did you mean by "prevailing prices"?

A. I do not remember that word exactly. I must have meant observing a fair and reasonable price as a market price.

Q. When you had one meeting at that time were there or not prices which were market prices?

A. Yes.

Q. How had those prices, which were existing at the time that you came together, been reached?

A. By discussion of the conditions of the market, the supply and demand.

Q. I am not speaking, Mr. King, of the discussion at that meeting, but when you came together at any particular meeting were there or not then prices prevailing, up to that time, of some kind?

A. They were discussed.

Q. I am just asking whether there were such prices.

A. I do not believe I understand you, Judge. There is always a market price which you can find out, and—

Q. What I am asking you—

MR. SEVERANCE: One moment. Will you permit Mr. King to finish his answer?

By MR. DICKINSON:

Q. Have you finished?

A. I would like to know just what you want, Judge.

MR. SEVERANCE: You said, Mr. King, something about there always being a market price, and when you got in the middle of that statement you were interrupted. What were you going to say?

THE WITNESS: I was going to say that the market price, of course, influenced the people who went to the meetings. If that price could be maintained, there was no use reducing the price.

By MR. DICKINSON:

Q. Was that price which was in existence when they went to the meetings generally a common price?

A. It was, a common price. It was reached largely by the question of whether or not there was enough demand to keep the mills employed. In that event the price was fairly stable. If there was not enough the price was apt to wobble from time to time.

Q. State whether or not the price that was in existence at the beginning of any particular meeting was one that had come over from a former meeting.

A. The chances are it did.

Q. You were asked whether or not the United States Steel Corporation or its subsidiaries had made any threats or any efforts to dominate these meetings with threats.

A. Yes, sir.

Q. Had that been the history of meetings where people came together for a common purpose—to dominate them by threats?

A. I think not.

Q. It was rather a policy of co-operation, was it not, than one of threats?

A. Of co-operation, yes.

Q. You stated, as I understood you, that pools were done away with for the first time in 1904, when Judge Gary took the initiative in doing away with them.

A. Yes, sir.

Q. I will ask you whether or not, just previous to that time, there was talk and discussions and rumors of an investigation and action upon the part of the Government.

MR. LINDABURY: What?

MR. SEVERANCE: 1904?

MR. DICKINSON: Yes.

MR. LINDABURY: I object to a question in regard to rumors and talks and vague references to matters of that kind, which cannot be traced. If there were any publications of that kind, they should be produced, and to make the evidence of any account, it should be shown to have come to the knowledge of persons concerned.

MR. SEVERANCE: May I ask you if you propose to show by this witness that Judge Gary heard anything of the kind?

MR. DICKINSON: No, I do not.

MR. SEVERANCE: Then you know the question is not proper.

MR. DICKINSON: Judge Gary is not the only man concerned in this suit.

MR. SEVERANCE: But he is the only man that you are now asking about. You have called the witness's attention to his testimony that Judge Gary was the man who did away with the pools, and so forth, and now you follow that up by speaking of Government investigations and rumors and then, following that, you say that you do not expect to show that Judge Gary knew of them.

MR. DICKINSON: I think it is perfectly competent, and if it is not competent, of course it will go out under exception.

MR. SEVERANCE: You know there are certain limits, and I appeal to you—

MR. DICKINSON: I think I am within the limit.

THE WITNESS: I would answer, if I must, in reply to that, that as time went on, from perhaps 1904, there was more discussion.

MR. LINDABURY: The question was limited to the period prior—

MR. DICKINSON: Prior to the dissolution.

MR. LINDABURY: Prior to the time when these pools were given up, which you say was the latter part of 1904. The question is whether before that time—

THE WITNESS: When was Roosevelt elected?

MR. LINDABURY: In the fall of 1904, and these were given up just following his election. Whether on account of it or not is apparently what Mr. Dickinson wants to find out.

THE WITNESS: Well, it is a fact, I think, that by Roosevelt and in Congress and in the press there was more discussion about iniquity in high places and about combinations, than there had been previously. I think that is all I can say. Do you want to know whether the public conscience was being awakened?

By MR. DICKINSON:

Q. No, I do not want to know about the public conscience

at all. I just want to know this, whether you, having been one of those who were engaged in these meetings, this Plate and this Structural Association, here described, anterior to their dissolution at the instance of Judge Gary, understood that the question of their legality was being mooted and talked of generally.

A. Well, there was more discussion of that in the newspapers. If that would be evidence, I do not know.

MR. LINDABURY: Do you mean to answer as of the time of 1904? Fix your mind as to that time.

MR. SEVERANCE: He is asking you about 1904.

THE WITNESS: As I understand it, Roosevelt was elected in November, 1904. Is that correct?

MR. SEVERANCE: Yes, by a large majority.

THE WITNESS: It is my belief that—

By MR. DICKINSON:

Q. Do not state your belief.

A. It is my recollection that the discussion of that question came a little later than that—well, after Roosevelt had been elected.

Q. When was he elected?

A. In the fall of 1904.

Q. But how about before you dissolved these associations?

MR. LINDABURY: They were dissolved then, Judge. The effective resolution was taken the 1st of November, 1904. They were in the process of winding up for a month or two, but the resolution to dissolve was then passed.

By MR. DICKINSON:

Q. I will ask you this question: Was the first suggestion that came to you that these associations were unlawful from Judge Gary, or had you had it before brought to your mind?

A. It came from Judge Gary.

Q. Did you attend the so-called Gary dinner of January 11, 1911?

A. Yes, I apparently did.

Q. Have you a copy of those proceedings?

A. I have it right before me.

Q. Where did you get that, Mr. King?

A. Some time ago, I do not know just when or from whom, I did not get it recently.

Q. Did you or not get, after those dinners from time to time, published copies of the proceedings?

A. Yes, I think I did.

Q. Is that (indicating) one of those you got in that way?

A. This is one of them, yes.

Q. Were there any published concerning the dinner of February, 1909?

A. It is my recollection that the proceedings at all those Gary dinners were taken down in shorthand and published in some shape, some such shape as this (indicating).

Q. Have you got one?

A. Yes.

Q. Have you one of February 18, 1909?

A. Oh, no. That was the luncheon that you spoke of this morning. No, I never saw any publication of that.

Q. Any back of that?

A. Oh, yes; back of that, I think they were all published.

Q. Have you copies of the others?

A. Not of all. I could only find, I think, two of them.

Q. What other besides that one?

A. The other one, I believe, was in May, 1911. Was there a meeting then?

Q. Can you let me have that?

A. I will let you have whatever I have.

Q. Have you anything back of that?

A. I have one besides this one, and I do not remember the date.

Q. Did you read that?

A. Yes, I read this. Do you mean whether I read it entirely through, or simply my own particular remarks?

Q. Entirely through.

A. I have not read it recently.

Q. Did you read it, though, shortly after it was sent to you?

A. Oh, yes.

Q. State whether or not, so far as you recollect, that reports the things that happened, in the way they occurred.

A. Yes.

Q. That is the best of your recollection, that it does?

A. Yes.

MR. DICKINSON: We would like to offer this in evidence.

MR. LINDABURY: This is in regard to the one dinner?

MR. DICKINSON: Yes.

MR. LINDABURY: Objected to as irrelevant and not competent proof of what was said and done at the meeting. I also object because the remarks quoted purport to be merely after-dinner remarks on a sociable occasion, and not discussions in a business meeting.

(The pamphlet was marked Government Exhibit, King, No. 140, October 7, 1912.)

RE-CROSS EXAMINATION,

By MR. SEVERANCE:

Q. You stated, in answer to counsel for the Government, that in your opinion it would be impossible for the Steel Corporation to put any of the large companies out of business, but that they might put some small company out of business if they went after it.

A. Yes.

Q. It is a fact, is it not, that if Jones & Laughlin started in to try to put some small company out of business, that by under-selling them they could probably do it?

A. If they were inclined to, perhaps they could.

Q. And any large corporation could do the same thing, but that is a very improbable thing?

A. It would be with us.

Q. That is what you meant by what you said, is it not?

A. That is all I meant.

Q. To go back to these meetings that Judge Dickinson

questioned you about, when the men at those meetings stated a price at which they proposed to sell their product, there never was any agreement to maintain that for any specific time, in any of those meetings, was there?

A. No specific agreement at all, but I would have to say that the effect was largely the same—the after effect.

Q. That is, you think they did sell for the price they said they were going to sell?

A. As a rule they did.

Q. That is, that they would sell at a certain price, but there was no time fixed?

A. There was no time fixed.

Q. They merely declared their purpose to sell at a certain price; that is the fact, is it not?

A. That is the fact.

Q. Judge Dickinson asked you a question that you assented to; he asked you if the prices you discussed as the market prices were not at times prices that had come over from some other meeting.

A. Yes.

Q. The price that you discussed, anyhow, was the prevailing price in the market, no matter where it originated?

A. If there had not been any change, yes.

Q. And that would be the same price, naturally, if everybody was selling at the same price?

A. Yes.

Q. Between these various meetings, however, as you have already said, prices were not maintained at a uniform figure by all the steel manufacturers?

A. Not always.

Q. In the case of a small manufacturer, if he is perfectly satisfied that the large manufacturers are going to sell at a particular price, he feels safe; and for business reasons, to make more profit, he would naturally sell at that higher figure rather than a lower figure?

A. That would be a question of whether the demand would allow him to do that.

Q. But if, as a matter of fact, his mill was running at only

one-half its capacity, and he wanted to fill it up, he would sell at a price that would enable him to do that?

A. He would have to do that.

Q. He would have to cut under the other price?

A. Yes.

Q. Those considerations are always effective, except in boom times?

A. Yes, they are effective.

Q. One man may be able to book orders enough to keep his mill filled up, and another man cannot, and a man who wants to keep his organization up and his men employed, will take a price under the current market, as it is published in the trade papers, is not that true?

A. If there is not enough business to fill all the mills to normal production of 100 per cent, of course to get more than the going rate of production, which we will say is 70 per cent, the mill would have to cut the price to get more.

Q. Unless they had superior salesmen?

A. Well, that does not count so much.

Q. You all have pretty good sales departments?

A. Yes; the price is what counts.

Q. But where the prices are equal, there is great activity and competition between the different companies in endeavoring to make quicker deliveries, and that sort of thing, is there not?

A. Delivery very often is the essence of a contract; of course a mill very often can get an order if they will agree to deliver sooner than another mill.

Q. That form of contract is put in force nearly every day, is it not?

A. Yes.

Q. I suppose each mill tries to get business by assuring prompt delivery?

A. Yes.

Q. What has been the effect of the organization of the Steel Corporation on the foreign trade of this country?

A. The foreign trade of this country in iron and steel products has largely increased since the Corporation was organized.

Q. And has it not increased largely through the efforts of the Steel Corporation?

A. Yes, sir.

Q. Do you happen to have in your head the percentage of increase?

A. I would think fifteen or twenty per cent.

Q. I mean in the eleven years since the organization of the Steel Corporation in 1901.

A. Oh, I misunderstood the question. I do not mean that there was only fifteen or twenty per cent increase in that time. The increase would be very much greater than that, but I would like to be excused from making a guess.

Q. You do not know?

A. No, I do not know.

By MR. DICKINSON:

Q. Who was the chairman of the general committee appointed at the first Gary dinner?

A. I would say Judge Gary. I think his name is first on the list there.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

WILLIAM H. DONNER

a witness produced by and on behalf of the United States,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. COLTON:

Q. When did you first go into business?

A. Into the steel business?

Q. Yes.

A. In 1894.

Q. In what capacity did you go into the steel business?

A. I went into the tin plate business in Indiana.

Q. With what company did you go into business?

A. The National Tin Plate Company.

Q. How long were you with the National Tin Plate Company?

A. Until the property was sold to the American Tin Plate Company in December, 1898, I think.

Q. What works did the National Tin Plate Company have?

A. The National Tin Plate Company of Indiana had the works at Anderson, Indiana, and the National Tin Plate Company of Pennsylvania had the works at Monessen, Pennsylvania.

Q. What was your duty in respect to the National Tin Plate Company?

A. I organized the National Tin Plate Company of Indiana and was treasurer and manager of the company.

Q. Were you familiar with the sales of the company?

A. Yes.

Q. And with the purchases of the company?

A. Yes, sir.

Q. From whom did you purchase tin plate bars for the various works of the National Tin Plate Company during the period you were with it?

A. The works in Indiana secured its tin plate bars from Chicago.

Q. From what company?

A. The Illinois Steel Company, although once or twice I think we bought small quantities from Youngstown, if I remember correctly.

Q. From what company in Youngstown?

A. The Ohio Steel Company, I believe.

Q. And from whom did you purchase your tin plate bars for your works at Anderson?

A. That was Anderson.

Q. I mean Monessen.

A. From the Carnegie Steel Company.

Q. That is Monessen, Pennsylvania?

A. Yes.

Q. Did you purchase your entire supply of tin plate bars from the Carnegie Company at that time?

A. Yes, sir.

Q. When did you dispose of the National Tin Plate Company, if ever?

A. Both companies were sold in December, 1898 to the American Tin Plate Company.

Q. What different individuals did you meet in connection with the sale of the National Tin Plate Company?

A. Judge Moore organized the company, but he had associated with him practically all of the manufacturers.

Q. Name some of the more important men that you met in connection with the sale of your company—to what company was it sold?

A. To the American Tin Plate Company.

Q. In connection with the sale to the American Tin Plate Company, mention some of the men more prominent that you met in connection with that sale.

A. There was Mr. Reid, Mr. Leeds, Mr. Wheeler, Judge Moore and his brother.

MR. SEVERANCE: Is not the formation of that enterprise thoroughly established by Mr. Moore and Mr. Reid?

By Mr. COLTON:

Do you know how much preferred stock the American Tin Plate Company issued?

MR. SEVERANCE: I object, as it has already been proven by the records.

MR. REED: It is admitted in the answer.

By Mr. COLTON:

Q. I will ask you whether you know or not.

A. \$18,000,000.

Q. Do you know whether cash options were taken on the different plants taken into the American Tin Plate Company?

A. Yes, sir; the options were taken on a cash basis, but the sellers had the privilege of taking common and preferred stock, the par value of each, for the price.

MR. LINDABURY: There is no dispute about it?

MR. COLTON: The only question is about the \$18,000,000, whether that represented the cash option price.

By MR. COLTON:

Q. State whether or not the \$18,000,000 represented the cash option price of the plants.

MR. LINDABURY: How could he know that?

MR. COLTON: Well, I will develop that.

MR. LINDABURY: Does he know it? I think it is true, but I do not think he knows it.

THE WITNESS: I think that gave them operating capital, but that was the amount of the preferred stock.

By MR. COLTON:

Q. Do you mean that \$18,000,000 was more than the cash option value of the plants?

A. I think \$18,000,000 gave them working capital, as well as sufficient money to pay for the property.

Q. Yes. How was the stock issued by the American Tin Plate Company distributed?

MR. LINDABURY: Your witness Judge Moore can tell you all about that.

MR. COLTON: I do not know when we will get him.

By MR. COLTON:

Q. You say how was the stock divided? Take the common stock and the preferred stock; what was done with it?

A. The seller received either the cash or the amount that he was to receive in cash in preferred and common stock.

MR. LINDABURY: According to his individual bargain?

THE WITNESS: Yes sir.

By MR. COLTON:

Q. How many million dollars in stock could they have used up, together with the working capital? You said that the working capital was included in the \$18,000,000?

A. I do not recollect the amount of working capital that the Tin Plate Company had in its inception.

Q. Do you know how much common stock was issued?

A. I think it was \$28,000,000 in common stock.

Q. What became of that common stock?

MR. LINDABURY: He has told where a large part of it went.

THE WITNESS: The promoters of the Tin Plate Company had an underwriting agreement by which you could either take cash or stock. Just how the other ten millions was distributed I know nothing about.

By Mr. COLTON:

Q. Did you see the underwriting agreement?

A. No sir.

Q. Did you subscribe to the underwriting agreement?

A. No sir.

Q. Where did you get your privilege to take either cash or stock?

A. In the option that we gave to the Tin Plate Company, as I recall, we had the privilege of deciding whether we would take cash or stock for the price at which we sold.

MR. LINDABURY: I think that is a mistake. I thought they all got their stock through the underwriting agreement, and not through the sales agreement.

By Mr. COLTON:

Q. After you had disposed of the National Tin Plate Company and its works to the American Tin Plate Company, what did you then do, in a business way?

A. The next works that I built was the Union Steel Company works at Donora.

Q. In what year did you begin the building of those works?

A. I organized the company in the summer of 1899; just when we broke ground and did active work I am not able to state. That matter was held up on account of our site.

Q. Where did you secure a site for your works?

A. At what is now known as Donora.

Q. Who was in that company with you?

A. The Mellons,—Mr. A. W. Mellon and Mr. R. B. Mellon, and later on Mr. H. C. Frick acquired an interest in it.

Q. How were your interests distributed among those four different interests?

A. I had one quarter; the Mellons had three quarters, and Mr. Frick had one third of their interest, giving him a quarter.

Q. What did you build during the years 1900, 1901, and 1902, in the way of heating furnaces, and, in general in the way of plants for making wire products, if anything?

A. We built a continuous mill for breaking down the billets preparatory to finishing on a Garrett rod mill; and this mill had two rod mills, a right hand and a left hand; and the necessary heating furnaces went with it.

Q. About how many wire nail machines, if any?

A. I do not recall the number of wire nail machines, or the number of wire drawing blocks.

Q. What was its capacity in the production of tons of rods?

A. About 180,000 tons a year.

Q. And about what was its capacity in wire?

A. I should think about 75 per cent of its rod capacity.

Q. And about what was its capacity in nails a year, in kegs?

A. I think about 1,200,000 kegs.

Q. At the organization of the Union Steel Company, and following its organization, from whom did you purchase billets?

A. We made a contract for our steel supply with the Carnegie Steel Company.

MR. LINDABURY: To run how long, if you do not mind mentioning?

THE WITNESS: I think the contract was made for five years, with the privilege, however, of either party canceling on a year's notice after a certain period.

MR. LINDABURY: And the year?

By MR. COLTON:

Q. Yes. As nearly as you can remember, what year was it entered into?

A. I think that was in 1900, sometime.

Q. Prior to the organization of the United States Steel Corporation?

A. Oh, yes; some time prior to that.

MR. REED: Can you fix it by reference to the dispute between Mr. Frick and Mr. Carnegie?

THE WITNESS: It was about the time of that dispute, because Mr. Carnegie was very anxious that Mr. Mellon make a contract with him. I remember receiving a cable from Mr. Mellon when he was on the other side.

By MR. COLTON:

Q. Did you, after the organization of the United States Steel Corporation, take any steps looking to the getting of raw material?

A. Yes sir; after the organization of the United States Steel Corporation we felt that it would probably be necessary for us to build a steel works; and we secured both ore and coke.

Q. Why did you think it would be necessary for you to get raw material?

A. We would be buying our raw material, steel, of our competitors, and I thought it was only good business to make ourselves independent.

Q. What did you do in the way of additional works at Donora, if anything?

A. We started the erection of two blast furnaces, twelve open-hearth furnaces and a mixing furnace, and a blooming mill.

Q. Did you lay out the ground in any special way in respect to the erection of blast furnaces, and if so, how?

A. We laid out our furnaces so that we could utilize all of the ground that we had.

Q. How many furnaces could you have had on that ground as laid out?

A. The site would accommodate four blast furnaces.

Q. Did you do any work in respect to any of the furnaces except those the erection of which you started?

A. No sir; no more than we had them in mind, and laid our plans so that, if we ever extended, we would not be at a dis-

advantage in building the two furnaces. In fact our plans were laid out with that object.

MR. LINDABURY: That is irrelevant. It is just like the case of a man building his house in such a way that he could add to it.

MR. COLTON: Of course if that is all there is of it that is true.

By MR. COLTON:

Q. State whether or not you made any sewer arrangement adaptable to other furnaces.

A. Our sewers and our general track lay-out and pumping plant were arranged with a view to further expansion, just as any steel works that had an engineer would plan it.

Q. What was the estimated capacity of each of the blast furnaces that were being constructed?

MR. LINDABURY: That is, the two?

By MR. COLTON:

Q. The two, yes; not the four, but just the two.

A. Five to six hundred tons a day. That would be the maximum.

Q. And about what would be the annual capacity of such furnaces?

A. About 360,000 tons a year.

MR. REED: Of each?

THE WITNESS: Of the two furnaces, I should say.

By MR. COLTON:

Q. And about what would be the capacity of the twelve 50-gross ton basic open-hearth furnaces that were being constructed?

MR. LINDABURY: Twelve times fifty, I suppose.

MR. COLTON: No; I do not think that is true.

By MR. COLTON:

Q. What would be the annual capacity?

A. About 45,000 tons per month, or 500,000 tons per year.

Q. And about how much would that give you in finished products?

A. That would be ingot capacity.

Q. In billets, blooms and slabs, how much would that be?

A. About 90 per cent of that amount.

Q. Were your finished wire products sufficient to utilize all of this steel?

A. No sir; but we built two blast furnaces, because two furnaces make an economical unit; and more open-hearth capacity than we needed, because we could manufacture to better advantage in having a plant of that size.

MR. LINDABURY: You can sell billets just as you can sell sugar, can you not?

By MR. COLTON:

Q. You can sell billets, of course, if you want to?

A. Yes; billets can be sold, as a rule, to very good advantage.

MR. LINDABURY: They are staple?

THE WITNESS: Yes.

By MR. COLTON:

Q. Or you can use your billets with additional works if you want to?

A. Yes; you could make other finishing mills to consume your entire product.

Q. Where were you selling your wire products at that time?

A. All over the country.

Q. What were your wire products at that time?

A. Rods, plain wire, galvanized wire, barbed wires, nails and staples.

Q. Who were your principal competitors prior to the merger of the Union Steel Company and the Sharon?

A. The American Steel & Wire Company; the Ashland Steel Company; the Kelly Wire Nail Company; the Kokomo Steel & Wire Company; the Page Woven Wire Fence Company; the Pittsburgh Steel Company; Dillon & Griswold, of Sterling, Illinois, Wickwire Brothers, of Portland, New

York, and the Alabama Steel & Wire Company of Birmingham, Alabama. I am not sure whether that was the name. It was the Schuler concern in Birmingham.

Q. How did your capacity compare with that of each of those companies that you have just named?

MR. LINDABURY: One after another? It will take a long time to go into that. Is that what you mean?

MR. COLTON: Yes; with each of them.

By MR. COLTON:

Q. Were you larger than any one of the others, taken separately?

A. Of course the American Steel & Wire Company had a great deal larger capacity than we had.

Q. But, of the others?

A. I think of the others we probably had the largest capacity.

Q. Did you mention the Sharon Company as one of the companies competing?

A. If I did not I should have mentioned them.

MR. REED: Do you mean capacity for wire products, or capacity for ingots?

MR. COLTON: Capacity for wire products.

By MR. COLTON:

Q. How did each of those companies excepting the American Steel & Wire Company of New Jersey compare in output, in actual sales, with your company?

A. There was another company that I failed to mention—the Grand Crossing Tack Company, of Chicago.

The Ashland Steel Company and the Sharon Steel Company each had very good plants, but they were not as large as the Union Steel; and the Grand Crossing Tack Company had a very good plant, but somewhat smaller.

Q. What did the Grand Crossing Tack Company make?

A. Everything in the shape of wire products that we made, and even some specialties that we did not undertake to make.

Q. Did they make tacks?

A. Yes sir.

Q. Was the Union Steel Company merged with the Sharon Steel Company?

A. Yes sir.

Q. And were the merged companies sold to the United States Steel Corporation?

A. Yes sir.

Q. Prior to the time that the merged Company was sold to the United States Steel Corporation, did any representatives of the different wire Companies visit your works at Donora? If so, at what times?

A. If I can just refer to this date (indicating book),—

Q. I just want it approximately.

A. The merger of the Sharon Steel Company and the Union Steel Company was made on the 20th day of November; very shortly after the deal with the United States Steel Corporation followed; because that agreement was signed as of December 15th.

(By request of Mr. Colton the stenographer repeated the last preceding question as follows):

“Prior to the time that the merged company was sold to the United States Steel Corporation did any representatives of the different wire companies visit your works at Donora? If so, at what times?”

THE WITNESS: You want to know the first negotiations that led up to the acquisition?

By MR. COLTON:

Q. Yes; I want just an answer to that question, as to whether any representatives from a company not your own company came there and inspected your works prior to that?

A. After the sale of the Union Steel Company to the United States Steel Corporation?

Q. No; I mean before.

MR. LINDABURY: He is asking about the merger.

MR. COLTON: No; before the sale to the corporation.

MR. LINDABURY: I thought you said before the merger.

MR. COLTON: No; before the sale to the corporation.

THE WITNESS: After our merging with the Sharon Steel Company Mr. Frick approached the Mellons and myself and stated that he was in a delicate position, being interested in both companies, and that he would like to see the Union Steel Company sold to the United States Steel Corporation, as he was in an embarrassing position, being in both companies, and could not take an active part under the circumstances.

Q. Prior to that time did any representatives of the American Steel & Wire Company visit the works at Donora?

A. Not after.

Q. I did not ask whether they did after; but before?

A. Before the merger of the Sharon they may have been there several times. I am not clear on that, because our relations were friendly and we would have extended them any courtesy in that respect. But our works were visited by a number of representatives of the Steel Corporation after we took up the question of selling the property to the Steel Corporation.

Q. Before that: State to the best of your recollection as to whether any representatives of the American Steel & Wire Company of New Jersey visited your works.

MR. LINDABURY: You mean shortly before that, of course?

MR. COLTON: Yes; sometime within six months before.

THE WITNESS: I think some months before that Mr. Baackes had been in Donora and had gone through the mill. After the merger, however, there were several that visited it. I am not positive who they were.

By MR. COLTON:

Q. Name as many of those as you can that visited the works prior to the time that the contract was closed with the United States Steel Corporation.

MR. LINDABURY: Is that important? Of course we admit that when the negotiations reached a certain point the Steel Corporation had the works carefully examined.

MR. COLTON: I just want to know who visited the works.

THE WITNESS: It is my impression that Judge E. H. Gary and a number of the Carnegie Steel Company officials

and of the Corporation officials, visited Donora in a private car. I know that Mr. Henry H. Rogers was in Pittsburgh, and also Mr. Norman B. Ream; and I think, Mr. George W. Perkins.

By MR. COLTON:

Q. Now, to go back to the time before you had gotten your raw materials for your works, what steps did you take towards the acquisition of raw materials, and where did you go in order to get them?

A. We made a contract for ore with Corrigan & McKinney, of Cleveland, Ohio, for ten years. I established an organization in Duluth——

Q. Just a moment. What was the tonnage on that contract?

(The witness produced a book.)

MR. LINDABURY: What have you there, Mr. Donner?

THE WITNESS: I have the contract with the Steel Corporation and the agreement of merger between the Sharon and Union Companies.

350,000 tons per year beginning in 1902 and extending for ten years.

By MR. COLTON:

Q. Was that for delivery at lower lake ports?

A. Yes.

Q. At what rate?

A. At \$3.25 per ton on old range ore, and \$2.65 per gross ton on Stephenson ore.

Q. I did not get the date of that contract. Can you state it, approximately?

A. I would say it was in the summer of 1901. It was a very unusual contract, and represented a very much lower price than that at which I could have purchased the ore; but the consideration was that we loaned Corrigan & McKinney \$1,500,000.

Q. I neglected to ask you that question: Were the parties connected with your company of considerable financial strength?

A. Yes sir; the Mellons are pretty strong people.

MR. LINDABURY: And Mr. Frick had a little, and Mr. Donner.

By MR. COLTON:

Q. What else did you do in the way of acquiring raw materials up in the Lake Superior District?

A. I established a mining company that had an organization in Duluth, with a view of buying properties and exploring those that looked desirable, with a view of developing a mine.

MR. COLTON: We will suspend at this point. Please be here in the morning so that we may continue your examination, Mr. Donner.

(Whereupon an adjournment was taken until tomorrow, Tuesday, October 8, 1912, at 10:30 o'clock a. m.)

TWENTY-SEVENTH DAY.

Room 309, Federal Building,
Pittsburgh, Pennsylvania,

October 8, 1912.

The hearing was resumed at 10:30 o'clock a. m., before
SPECIAL EXAMINER JOHN A. BROWN.

Present on behalf of the United States, MR. DICKINSON and
MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR.
SEVERANCE, MR. BOLLING and MR. REED.

WILLIAM H. DONNER,

resumed the stand for further

DIRECT EXAMINATION (Continued),

By MR. COLTON:

Q. You were saying that you organized a mining company
in Duluth, was it, Mr. Donner?

A. Yes, sir. We, as I recall, took out a Minnesota charter
and organized the Donora Mining Company, with offices in
Duluth.

Q. And in what year was that organized, as nearly as
you can recollect?

A. I think that was early in 1901; and yet we may not
have taken out a charter very quickly, as we had nothing to
start with, and did not need any.

Q. What property did you first acquire after the organ-
ization of that company?

A. We secured a number of leases on lands that were lo-
cated on the range.

Q. On what range?

A. On the Mesabi range; and spent considerable money
attempting to find ore. We probably spent upwards of

\$100,000 before we had any showing whatever. During that period we bought the Sweeney Mine.

Q. How much ore was there in the Sweeney Mine? What was the estimated amount?

MR. LINDABURY: You mean developed?

MR. COLTON: I will bring that out.

THE WITNESS: When we bought it, it is my impression that there was over 500,000 tons actually developed, and it was quite a bright prospect. We afterwards developed it, and it contained approximately 2,000,000 tons.

By MR. COLTON:

Q. What bonus did you pay in respect to the purchase of that mine, if any?

A. We paid \$100,000 cash and gave a bonus of five cents per ton to two different parties from whom we secured the property; and the original lease was made at 25 cents a ton; so that that made the royalty 35 cents.

MR. LINDABURY: Will you ask what he means by the term "bonus" in that connection? I see it is used frequently by these ore men.

By MR. COLTON:

Q. What do you mean by the term "bonus" in that connection?

A. You can very frequently secure an option on ore lands with the privilege of leasing at a stipulated price for the mere agreeing to drill the lands and explore them; but where the lands have a showing in ore, or are in close proximity to well-known mines they command a premium; and it is not an uncommon thing to give \$10,000 or \$25,000 or \$50,000 or \$100,000 for the privilege of exploring the property, together with a lease.

Q. What was the metallic content of the ore in that mine?

A. About 63 per cent, as I recall.

Q. How does that compare with the general run of ore in the Mesabi District?

A. That is very good. This mine, I might say, laid in a very good location, and we knew there could not be any enor-

mous body of ore, but we were certain of a million tons or more.

Q. What other mines did you acquire through the Donora Mining Company, if any?

A. We purchased the Penobscot Mine together with two ore vessels.

Q. Take up that mine, before going on to the next. What was the estimated tonnage of that mine?

A. Ten million tons.

Q. Was that a developed mine?

A. Yes sir; that was a developed mine; it had been in operation two or three years, as I recall.

Q. Did you get it by lease, or by paying for the fee?

A. I purchased the mine in fee, assuming the contract for the sale of ore, which had already been made.

Q. With whom was that contract for the sale of ore?

A. The National Steel Company.

Q. About how much ore was to be delivered under that contract to the National Steel Company?

A. 1,400,000 tons.

Q. About what was the then output of the mine?

A. I think they had only sold ore on that one contract; although I would not be positive. The mine should produce easily 200,000 to 300,000 tons, I would think, in the condition that they had the mine.

Q. What was the minimum production to be taken by the National Steel Company?

A. 200,000 tons.

Q. What was the royalty that the National Steel Company was to pay?

A. The National Steel Company purchased the ore delivered at Lake Erie ports. The mine was owned in fee, so that there was no royalty to be paid to anyone.

Q. What was it to be sold at at Lake Erie ports?

MR. LINDABURY: Was there not a contract in writing?

THE WITNESS: I do not believe it specified a price. You asked me that, before my examination. I have no memorandum of the price, but it was at a price that would give

no profit whatever to the Penobscot Mine, and there had been a loss.

By MR. COLTON:

Q. Is that contract in writing?

A. Yes sir.

Q. Do you know where a copy of that contract is?

A. I had one, in the original files; but that is ten years ago.

Q. Do you know whether it was turned over with the other papers to the Union Steel Company?

A. Yes, sir; it was in those papers. That price could be very easily ascertained, but it was a losing contract to the Penobscot Mine, and had been to date. That is one of the reasons I was able to buy the mine at such a low price.

Q. What did you pay for the mine?

A. I finally purchased the mine and the two ore vessels for \$1,375,000.

Q. What was the portion of that that was attributable to the ore vessels?

A. \$600,000.

Q. What was the metallic content of that mine?

A. It averaged about 60 per cent.; and half of the ore was Bessemer, and half non-Bessemer.

Q. Does that mean 60 per cent. after it was dried, or before it was dried?

A. That means after it was dried.

Q. You state that the estimated quantity in the mine was ten million tons?

A. Yes. And we thought that that could be increased a little.

Q. Did the mine have any advantages or disadvantages?

A. Well, it probably was the wettest mine in that vicinity.

Q. Does that mean in the Mesabi Range?

A. Yes, sir.

Q. What did it have on it?

A. You mean as regards water?

MR. LINDABURY: In it, I guess you mean.

MR. COLTON: On it or in it, I do not know which.

THE WITNESS: Well, it took about 5,000 gallons of water a minute to keep that mine dry.

MR. LINDABURY: You mean you had to pump that out?

THE WITNESS: Yes, and if we missed one minute we would have to take out 10,000 gallons the next minute.

By MR. COLTON:

Q. It was not located under a lake, was it?

A. No, but it seemed to be the natural drain for that section of the Hibbing district. It had, however, a very economical pumping plant; so it was thoroughly equipped to take care of the water.

Q. Did that offset the disadvantage of the water?

A. It meant that it took about \$25,000 of coal a year.

MR. LINDABURY: To offset it——

THE WITNESS: To supply the steam to operate the pumps.

By MR. COLTON:

Q. About how much would that be per ton, estimated cost per ton, in getting the ore out attributable to taking care of your water?

A. That would be entirely dependent upon how much ore you mined. We had no idea of operating that property as it was then operated.

Q. Well, what could be done with the property?

A. It could be stripped and mined thirty or forty cents a ton, easily, cheaper than they were mining it. That is why I regarded that property as so much more valuable than its owners did.

Q. And if you stripped it, would that get rid of the water, or would you still have to pump the water?

A. No, sir; but it would be a steam shovel proposition, whereas it was an underground mine.

Q. Did you purchase any other mines in the Mesabi Range?

A. No, sir. We were finally fortunate enough to discover a mine.

Q. What mine was that?

A. That was known as the Little Mesabi.

Q. That was located near the other mine?

A. No; that was located in the other part of the range, under a lake, the major portion of it being under a lake.

Q. Had you got that under one of those exploration contracts?

A. Yes, sir.

Q. What royalty did you have to pay on that?

A. That was a very favorable lease, having a small minimum and a 25-cent royalty.

Q. What was the minimum? Well, no matter, if you do not recall.

MR. SEVERANCE: A state exploration contract?

By MR. COLTON:

Q. Was it a state exploration contract?

A. It was partly a state lease, I think, which is very favorable to the operator; and we also paid a small bonus on that.

Q. To the people that had leased from the state?

A. To the people that had secured the lease a year or two prior.

Q. And when did you secure that mine?

A. I secured that lease some time during 1901, and did a great deal of drilling without any results, until we finally put down one hole very near this little lake and struck some ore. We then had to wait until ice was over the lake, and discovered the property by drilling through the ice.

Q. Was the lake capable of being drained?

A. Yes, sir.

Q. Would it have been a very expensive proposition to drain it?

A. No, sir.

Q. Do you have any idea how much ore there was in the mine?

A. Approximately ten million tons.

Q. Do you recall how much the bonus was?

A. It was a very small amount; I think \$10,000.

Q. Was the mine developed at all at the time you made that lease?

A. No, sir. Well, I think there had been a few holes, but they had been negative.

Q. What other mines did you secure in the Mesabi Range, if any?

A. That is all the properties we had that were known to contain ore.

Q. What mines did you secure in any other range?

A. There was the Volunteer mine.

Q. Before you go on to the next mine. Where was the Volunteer mine located?

A. Either on the Marquette range or an offshoot of that range known as the Cascade; I am not clear on that.

Q. How did you get that mine?

A. We leased that mine with the privilege of purchase.

Q. What was the royalty on that mine?

A. Fifty cents per ton.

Q. What state was that in?

A. In Michigan.

Q. What sort of ore did that mine contain?

A. A hard ore.

Q. Known as Old Range ore?

A. Yes, sir.

Q. Was it Bessemer or non-Bessemer?

A. I do not recall.

Q. What bonus did you pay in getting that mine?

A. I do not think we paid any bonus on that proposition.

Q. What was the metallic content of that mine as compared with other mines?

A. Those are matters that can be very easily obtained by looking up the records of what the mine has produced heretofore and seeing its content and tonnage. It is an old mine, and there are published records of the mine.

Q. In a general way, how did the quality compare with others in the same neighborhood, or with other Old Range ores, I will put it?

A. It was a very good ore, but rather refractory.

Q. What is "refractory"?

A. Well, hard to smelt.

MR. REED: What is the name of this mine you are talking about now?

THE WITNESS: The Volunteer.

MR. LINDABURY: In Michigan?

MR. REED: Which range?

MR. DICKINSON: He said in the Cascade Range.

By MR. COLTON:

Q. Did you say that was in Michigan?

A. In Michigan; yes, sir.

Q. What was the estimated tonnage of that mine?

A. That was an Old Range property, in which it was impossible to estimate the contents of the mine.

Q. Did you have any other mine besides that?

A. There were several other explorations in that vicinity. I can explain that a little further now. In the deal as made between the Sharon Steel Company and the Union Steel Company, the Volunteer mine and certain leases in the Cascade Range adjacent or near to the Volunteer mine were not considered in fixing the value of the ore properties of Union, and were excepted out of the agreement. When it came, however, to the United States Steel Corporation purchasing the Union Steel Company, after it had been merged with Sharon, they insisted on those properties being included.

Q. Who insisted?

A. The United States Steel Corporation. They also insisted that there be a reduction of \$1,500,000 in the valuation that the Sharon Steel Company and ourselves had placed on the mines, when we had aimed to arrive at what we considered the cash values of the properties.

Q. Not what you paid for them, but what they were then worth?

A. Yes.

MR. LINDABURY: In the merger, you mean?

THE WITNESS: In the merger. The price that the Sharon Mine had cost them, or what our properties had cost us, bore no relation whatever to their value.

By MR. COLTON:

Q. It was very small indeed in proportion to their value?

A. For example, we had invested considerably more money than the Sharon, and yet our properties went in at the same price. Sharon, in fact, had only paid, as I recall, \$150,000 bonus for a lease which afterwards developed into a very large mine, containing about 25,000,000 tons of ore.

Q. Was that for a lease or for the fee?

A. That was for the fee; yes.

But when they bought it it was an unknown quantity. It had one drill hole in very good ore.

MR. REED: 25,000,000 tons, did you say?

THE WITNESS: Yes.

By MR. COLTON:

Q. Do you know when the Sharon secured that mine?

A. No; I do not; but I think it was in——

Q. Well, it is not important.

A. I think I had better not answer that. I would not be sure.

Q. Your mines were secured, for the most part, subsequent to 1900?

A. No sir; they were secured after we decided to build blast furnaces, which was in 1901.

Q. They were secured subsequent to 1901, then?

A. Subsequent to the early part of 1901.

Q. Were you familiar with the prevailing rates of royalty prior to 1901? I mean, did you have personal knowledge of them? I am not asking if you just picked it up through trade journals, or something like that.

A. I had no knowledge of ore values, or of the Mesabi Range prior to my requiring ore, when I got as well posted, of course, as I could. There had been a great change in

the Mesabi Range since its discovery. In fact, it had been increasing in value slightly each year; but, apparently, the people who had the most ore did not appreciate its real value.

Q. What were the prevailing rates of royalty in 1901 on the Mesabi Range?

A. I think the prevailing rate had been from 25 cents upwards.

Q. Up to what?

A. Right at that time I do not recall hearing of more than 35 cents.

Q. I am speaking of 1901. You are confining your answer to that?

A. Right to the early part of 1901?

Q. No; the entire year of 1901.

A. Values changed in the year 1901.

Q. Yes.

A. There was quite a change.

Q. When did that change begin?

A. When it was learned and thoroughly understood that the ore had a great value in itself.

Q. At what date, as nearly as you can give it?

A. I knew it——

Q. When did it begin?

A. Just let me answer it more fully. I knew it as soon as I made my first inquiries as to the prices of ore.

Q. At what date was that?

A. Probably in January or February of 1901; but it was not generally known. The Carnegie Steel Company evidently realized it for a long time prior to that, because they had been buying every property that showed promise, and they were picking them up, conservatively, without causing any excitement.

Q. Do you know at what rates they were picking them up?

A. Just as cheaply as they could.

Q. Do you know how cheaply that was?

A. As low as 15 cents a ton, I think, in some instances.

Q. At what date were they picking those up?

A. I think in 1900; probably earlier than that. Mr. Oliver probably appreciated the value of the Mesabi ore earlier than anyone in the steel business.

Q. You secured your mines after this rise in the market price?

A. After it was just starting, but before it was thoroughly understood.

The Rockefeller interests owned a railroad, and I am sure they did not appreciate the value of Mesabi ore.

Q. Did you get any leases from them?

A. No sir; it had all been taken over by the Steel Corporation.

Q. You are speaking of the time after the Steel Corporation was formed, then?

A. Prior to the formation of the Steel Corporation. I am sure they did not realize the intrinsic value of Mesabi ore.

Q. Did you realize it before the Steel Corporation was formed?

MR. LINDABURY: He has just answered.

THE WITNESS: No; I did not, fully. It was a matter that anyone who was really practical in the steel business would discover very quickly, when the small quantity of ore in sight had been developed.

By MR. COLTON:

Q. Did you have any difficulty in finding plenty of people ready to lease you ore at that time, in 1901 and 1902?

A. There were any quantity of leases that could be secured, but the really desirable lands had been gathered for some time; they had been quietly gathered for some time by the Oliver Mining Company and the Hill interests.

Q. Did not the Rockefellers have a lot?

A. Yes; they had a great deal; but I do not think they were active in securing properties, as the Oliver Mining Company was.

Q. Had their activity been earlier?

A. It had; and their interest in the ore business was more to secure the freight haul on the ore.

Q. Outside of the Hill interests and the Oliver interest and the Rockefeller interests, were there any other large owners up there that had ore?

A. The Minnesota Iron Company, which was owned by the Federal Steel Company, had very large interests.

Q. Outside of those?

A. There were a number of large properties that were owned by various steel companies.

Q. Name them.

A. For example, the Mahoning Mine was owned by several steel companies.

Q. Can you name those?

A. The Mahoning Mine is owned 50 per cent by the Cambria Steel Company, the Republic Iron & Steel Company, and the Andrews & Hitchcock Company, the American Steel Hoop Company; M. A. Hanna & Company own the remaining 50 per cent. Corrigan, McKinney & Company, of Cleveland, owned a number of mining properties on the Mesabi Range and other ranges. Jones & Laughlin had ore properties.

Q. Do you know about the extent of their ore properties?

A. The extent of the ore properties of Jones & Laughlin?

Q. Yes.

A. No; I do not; but I am sure they had quite a number of very good properties.

Q. Do you know the extent of Corrigan & McKinney's ore properties?

A. They had one very large mine on the Mesabi Range with which I was familiar.

Q. Do you know how much developed ore they had up there?

A. That would be pretty hard to determine; but it was a great many million tons.

MR. LINDABURY: Were they manufacturers?

THE WITNESS: They were manufacturers of pig iron only and were large sellers of ore.

MR. LINDABURY: Did they sell a major part of what they mined?

THE WITNESS: Yes, sir.

By MR. COLTON:

Q. Do you know the extent of M. A. Hanna & Company's ore properties?

A. No, sir; I do not, but M. A. Hanna & Company and Pickands & Mather and Lackawanna Steel——

Q. (Interposing) Do you know the extent of Pickands & Mather's property?

A. No, sir.

Q. Do you know the extent of the Lackawanna Company's properties?

A. Yes, sir; I know that they have some very large properties, but just how large I could not tell. But I could figure——

Q. (Interposing) Could you tell within ten million tons of how much it was?

A. No, sir; I would not——

Q. (Interposing) Could you say whether it was twenty million tons or fifty million tons?

A. No, sir; I never had any occasion to investigate their properties, but from their location, I know they were very good.

Q. What can you say about the coke properties of the Union Steel Company?

A. We had 3,212 acres known as the Republic Coke Company that was in what is called the Klondike region, and very near a very fine property owned by the Federal Steel Company called Buffington.

Q. Was that developed?

A. No, sir; but it was thoroughly drilled.

Q. Did you have any ovens on it?

A. No, sir.

Q. What can you tell me of the Connellsville Central Railroad property?

MR. LINDABURY: Will you ask him whether it was drilled when he got it, or while he had it?

By MR. COLTON:

Q. Was it drilled when you got it, or while you had it?

A. That property had been purchased by the Mellons and others some time before the organization of the Union Steel Company, and was thought to be a very promising coke field.

Q. Do you know what they paid for it?

A. No, but it was less than I paid. I can arrive at that figure by subtraction here. I paid on a basis of \$1,214,581.59.

Q. About how much an acre would that be?

A. Approximately \$350 an acre.

Q. Development had taken place in the mean time on the property, had it?

A. As I recall, they did considerable drilling, and there was a chance to purchase an interest in this coke property on a basis of \$1,214,581.59, and they offered me an interest on that basis, which I took, and regarded as a great bargain. While the Republic property itself had been partially drilled, the development of other properties around the Republic gave us further information.

Q. About what date was that that you got that further information?

A. I think the Mellons had that information in 1900.

Q. What was the Connellsville Central Railroad Company?

A. In order to reach the Republic coke property and other properties, it was necessary to build a railroad that had been extended as far as Buffington, as I recall; a very much shorter haul and more favorable as to grades, would be down a certain creek near Brownsville. We were considering this problem and purchased the charter from other people who also had that idea in view.

Q. Who were those other people? Go on with the statement and mention the other people.

A. The Hillmans and their associates.

Q. Were they independent coke people, I mean independent of the Corporation, so far as you know?

A. Yes, sir. They were doing business for themselves.

Q. Did that railroad company have a right of way all the way to Brownsville?

MR. REED: From where?

MR. COLTON: From where?

THE WITNESS: No sir; as I recall, we did not have near all the rights of way.

By MR. COLTON:

Q. Did you have the right of pre-emption for the entire way?

A. We had the charter, and were compelled to do a certain amount of work when we made the purchase from the Hillmans as they were building ovens and wanted to get out with their coke.

Q. You were compelled to do a certain amount of work which enabled them to get out with their coke?

A. Which enabled them to get out with their coke.

Q. That was enough to enable them to get out with their coke, but was not enough to enable you to get out with your coke?

A. We ran the railroad toward Buffington connecting with the other railroad, and the Steel Corporation have since continued that right down, as we intended it, and all of the coke from the Klondike region, it is my understanding, goes that route now.

Q. From what point did the charter give the right of way, or give you the right to take the right of way to Brownsville, if at all?

A. I cannot recall those matters.

Q. Approximately?

A. I think it was from where this one railroad terminated.

Q. That is, where the Buffington Railroad terminated?

A. Yes. That railroad was not owned, I think, by the Steel Corporation.

Q. Who did own it?

A. I do not know, but I would suppose either the B. & O. or the Pennsylvania.

Q. Was the right of way which the charter gave you the privilege of taking good or bad from the point of locating a railroad to take out coke in that region?

MR. LINDABURY: The route, you mean?

MR. COLTON: Yes, the route.

A. It was very good, because it was a down grade and a very much shorter haul.

By MR. COLTON:

Q. Do you know whether the railroad completed by the United States Steel Corporation follows the same route as that for which the charter gave the privilege of taking land by preemption?

A. It is my impression that the Steel Corporation turned that railroad over to either the Pennsylvania road, or to the Lake Erie, or to those roads jointly. I am not sure; I do not know whether they gave it to them or leased it to them. I am not in their confidence, and could not tell you.

Q. Are you sure that they disposed of it to them at all?

A. I understood so.

Q. What do you base that understanding on?

MR. LINDABURY: He says he has no knowledge. He was not in their confidence, but he has heard it.

MR. COLTON: I just want to find out whether or not it is hearsay.

MR. LINDABURY: All right. He has said that, I think.

MR. COLTON: If it is hearsay, I shall pass on, of course.

MR. LINDABURY: Have you any actual knowledge on the subject? That is the real question.

THE WITNESS: I have no positive knowledge; and yet I am almost certain that was done.

MR. LINDABURY: Have you got this charter? I would like to see it. Was it a special charter?

By MR. COLTON:

Q. What was done with that charter? Where is it?

A. The Steel Corporation took it over.

Q. Are you sure they got it?

A. Just what they did with it I do not know.

By MR. LINDABURY:

Q. It is not printed in that book you have there, is it?

A. No, sir.

Q. Do you know whether it was a special charter?

A. I think it was a regular railroad charter.

Q. Something that anybody can go and file?

A. Something anybody can file. We were going to file it, but we found somebody was in ahead of us.

MR. REED: It costs \$50 or \$60 to get one.

By MR. COLTON:

Q. There had been considerable work done in connection with that railroad, had there not?

A. Not a great deal.

Q. Had you built any portion of the track of that railroad before the sale to the Steel Corporation?

A. I am sure we were working on the grades, and I think that some of the track had been laid. I remember that Mr. Hillman was very vigorous in urging us to get his coke plant connected.

Q. What Hillman was that?

A. Mr. J. H. Hillman, Sr., who had an office in the Frick Building.

Q. What can you tell me of the Lake Erie Terminal Railroad Company?

A. The Mellons had purchased about 2,000 acres of land at Elk Creek on Lake Erie, which was a very desirable location for a town and a railroad terminal.

Q. For a railroad terminal for what district?

A. For any district that wanted to do a lake business. The natural district would be the valleys and the Pittsburgh District.

Q. What do you mean by "the valleys"?

A. Points like Youngstown, Sharon, New Castle. I think this terminal railroad was more to secure the rights for that harbor and in that property that they acquired; and I do not think any large surveys had been made yet in connection with the railroad; I think it was more of a terminal for the harbor.

Q. Had any surveys been made in connection with that railroad?

A. There had, necessarily, been some surveys made.

Q. Do you know how the ingot capacity of the Sharon Company compared with the estimated ingot capacity of the Union Steel Company?

A. They were practically the same, as I recall.

Q. Would twelve 50-gross ton open-hearth furnaces produce the same amount of ingots in different plants, or do furnaces differ?

A. There is frequently a slight difference, owing to the size of furnaces or practice; but substantially the same if the furnaces were the same size.

Q. If both furnaces were 50-gross ton furnaces they would be the same size? Twelve is the number of different furnaces, and 50 is the size of the furnaces? Is that it?

A. Yes, sir; but very frequently one furnace will be a little larger than others. There is considerable variation in those matters.

Q. Your recollection is that it was about the same, as between the Sharon and the Union?

MR. LINDABURY: He has said so.

THE WITNESS: Yes, sir; substantially the same.

By MR. COLTON:

Q. What would the annual capacity be of a blast furnace producing about 350 tons or 400 tons per day?

A. Approximately 125,000 tons per year.

MR. LINDABURY: Which one now?

By MR. COLTON:

Q. Each?

MR. LINDABURY: The 350 or the 450?

MR. SEVERANCE: The 350, you said, did you not?

THE WITNESS: That is merely a matter of multiplication, Mr. Colton.

By MR. COLTON:

Q. How many days do you use in arriving at the result? That is what I am interested in.

A. Furnaces have to run continuously.

Q. But it is always a little less than the daily capacity, is it not?

A. That depends entirely upon practice. Some operators will get more out of the same furnace than others. A 350 ton furnace, with good luck, should produce 350 tons every day.

MR. LINDABURY: For 365 days?

THE WITNESS: For 365 days, yes. But eventually that furnace will have to be relined, which means a shut-down; and there are certain accidents that are likely to occur, and very frequently some furnace men are able to crowd a furnace, so that they will get more than the rated capacity for a period.

MR. LINDABURY: And some furnaces crowd the operator a little, and do not get as much as their rated capacity? That is speculation. There cannot be any rule about the deficiency, can there?

MR. COLTON: No; there is some approximation of it, however.

By MR. COLTON:

Q. What were the negotiations leading to the merger of the

Union Company with the Sharon Company, and what part did you take in them?

A. Early in 1902, or possibly late in 1901, the Sharon Steel Company and ourselves discussed the question of merging the two companies.

Q. Who? You?

A. Yes sir.

Q. Were you one of the ones that discussed that?

A. Yes sir.

Q. Continue with a description of the negotiations that led up to the merger of the Union Company with the Sharon Company.

MR. LINDABURY: Do you mean a description or a narration, Mr. Colton?

MR. COLTON: A narration.

THE WITNESS: The Sharon people and ourselves both thought it would be a very advantageous deal if our companies were consolidated; that we could operate the plants unitedly more economically than we could separately; and there would be some advantages in freights if the two properties were consolidated. We could throw our western business to Sharon, which took a little lower rate of freight west than Donora, and we could throw the eastern business to Donora, which took a lower rate of freight east; and we could classify orders to a little better advantage, possibly, and operate with greater efficiency.

By MR. COLTON:

Q. Was that the substance of the discussion on the first occasion?

A. Yes, sir; but we could not agree on valuations.

Q. Who were the parties to that first discussion that took place?

A. Mr. George Darr, President of the Sharon Steel Company; Mr. John Stephenson, the Vice President and Manager; Senator Flinn, the Mellons and myself.

Q. How is Donora located with reference to Pittsburgh?

A. It is situated 38 miles up the Monongahela River.

Q. In what direction is that?

A. That is south.

Q. In what direction from here is Sharon?

A. Sharon is north of here.

Q. What distance?

A. I do not remember the distance, but it is approximately 60 miles.

Q. At that first discussion along in 1901, did that discussion come to anything?

A. No, sir; that discussion was abandoned, as we could not agree on valuations, and we had different views as to just what should be finished, as I recall, in Donora and Sharon. They were largely committed to certain improvements, and we were likewise.

Q. When did you next have a discussion with the Sharon people on the subject of merging the two companies?

A. I think some time in October.

Q. Of what year?

A. 1902.

Q. What was the subject of that discussion?

A. We both agreed that it would be desirable, from a business standpoint, to merge the companies, if it could be done on a fair valuation of the two companies, and with that end in view, they looked over our mills, and we looked over theirs. We gave them all the information we had in regard to our mining properties excepting the Volunteer and the Old Range explorations that I have heretofore mentioned. In fact, we went to the Mesabi Range and saw their mine, and they saw the Penobscot and all of the drillings and maps of our properties. We finally agreed that it would be fair to merge the plants of the two companies on a basis of the actual cost of our mills and improvements. We next agreed on a valuation of the land.

MR. LINDABURY: At the mills?

THE WITNESS: At the mills. We then agreed on the valuation of the coking coal properties and the fuel coal properties and the ore properties, and that resulted, finally, in the Sharon-Union agreement which we thought was the fair cash value of the two companies.

By MR. COLTON:

Q. And that valuation was made independent of original cost, as I understand it?

MR. LINDABURY: As to what?

MR. COLTON: Original cost of the properties.

A. No, sir; it was made on the exact cost of the mills and plants, but on an appraised valuation of the ore, coal and coke; but our mills, blast furnaces and steel works and rod mills and so forth, went in at the actual cost.

By MR. COLTON:

Q. Did it allow for any profit?

A. No, sir; none whatever. Each company had earned some money, and of course we were entitled to what we had earned.

Q. I did not hear the last part of your answer.

A. Each company had earned some money, and that was figured as cash. And this was all subjected to the auditors of the Union Steel Company to audit Sharon, and for the Sharon auditors to audit Union, and for either one of us to employ public accountants to audit, if we were not satisfied.

Q. What was the date upon which the merger was consummated between the Union Steel Company and the Sharon Steel Company?

A. November 20, 1902.

Q. Did any difference appear as to the degree of publicity of your plans, following the merger of the Sharon Company with the Union Company?

MR. LINDABURY: What is that?

MR. COLTON: I asked, was there any greater publicity of his plans after the merger of the Union Steel Company and the Sharon Company than there was prior to the merger.

MR. LINDABURY: What plans do you mean? Plans for doing business?

MR. COLTON: General plans of construction and doing business.

MR. LINDABURY: Oh, you mean plans for development?

MR. COLTON: Plans for development, yes.

MR. LINDABURY: Or to carry on business?

THE WITNESS: The Union Steel Company was a very close corporation, there only being four parties interested; but after the Sharon agreement was signed, of course it meant the merging with Sharon, which had a great many stockholders, and the amalgamation became very widely known, as Pittsburgh has enterprising newspaper reporters.

By MR. COLTON:

Q. I would like to show you an article that purports to appear in the "Iron Age," and will ask you to read it and explain it as to whether it has any basis. Please read that article that is marked there (handing witness a bound volume of the "Iron Age").

MR. LINDABURY: I object to the question. If the article in the "Iron Age" needs any explanation, we ought to have the explanation by the editor or the writer, whoever he was, and not have an interpretation of it.

MR. COLTON: I will ask him to read it, and then ask him some questions concerning it.

By MR. COLTON:

Q. I will ask you to read the article aloud, so I may ask you some questions concerning it.

A. Heading "A New Rail Mill"—

MR. LINDABURY: Are you asking him to read it?

MR. COLTON: I have simply asked him to read the article in order that I may ask questions.

MR. LINDABURY: To read it aloud

MR. COLTON: Yes.

MR. LINDABURY: I object.

MR. COLTON: So it may appear in the record concerning what I am asking questions about.

MR. LINDABURY: I object to his reading any article of that kind, either as evidence of a fact, or for any other purpose, unless it is shown that it came to the attention of officers of the Steel Corporation and was the basis of some action or inaction on their part.

By MR. COLTON:

Q. Are you familiar with that publication?

A. With the "Iron Age?"

Q. Yes.

A. Yes, sir.

Q. Where is it published?

A. I believe it is published in New York. Yes, I see it is published in New York.

Q. Is it a well known trade paper or not?

A. Yes, a very well known paper, with a very large circulation.

Q. One of the standard papers?

A. Yes, sir.

MR. COLTON: I ask that the article in question be marked for identification.

MR. LINDABURY: Let us have a reference to the page or something. What page have you before you?

THE WITNESS: I have page 49 of the issue of December 11, 1902, second paragraph, right hand column.

MR. LINDABURY: How many pages are there in the volume you have?

THE WITNESS: It is about the size of Webster's unabridged dictionary.

MR. LINDABURY: Or Universal dictionary. Fine print, is it not?

THE WITNESS: Yes, sir; and each month is numbered separately.

MR. COLTON: The particular article which I ask to have marked for identification begins with the words "A new rail mill" and ends with the words "to Elk Harbor."

MR. LINDABURY: All right, "A new rail mill" "to Elk Harbor." That is hearsay.

THE WITNESS: Yes, sir.

MR. COLTON: I offer that article in evidence.

MR. LINDABURY: I object to it as irrelevant, incompetent and not evidential of anything except that somebody was publishing a newspaper, in which all the information and all the gossip, I suppose, bearing on the industry was gathered with the usual industry and inaccuracy. You might as well offer the "Post-Dispatch" or "Leader" here today as evi-

dence of the political situation, and it would probably be just as accurate, and undoubtedly published with as much fidelity as this article. Nevertheless the Court is not in the habit of receiving those statements as evidence of facts.

MR. COLTON: The best way of proving publicity is by the articles themselves, as you suggested the other day.

MR. LINDABURY: Have you had that article designated or marked?

MR. COLTON: I have offered it in evidence.

THE WITNESS: I have not admitted any of that is a fact.

MR. COLTON: No, I simply offer that article in evidence.

MR. SEVERANCE: Are we to understand that you are going to have the witness read it?

MR. COLTON: No; I do not care whether he reads it or not. I have offered it in evidence.

(The article referred to and so offered in evidence is as follows):

“A New Rail Mill. In all probability the Union Steel Company will build a large rail mill at Donora, Pa. An official statement of the matter has been issued as follows:

“ ‘We propose to build a steel rail mill either at Donora or Sharon, which will cost \$5,000,000, that will be almost as large as the Edgar Thompson Works of the Carnegie Company. We expect to expend from \$25,000,000 to \$30,000,000 in improvements. We have had plans prepared for an extension of the West Side Belt Line into the Connellsville coke country and down the Ohio, along the Beaver and through Sharon to Elk Harbor.’ ”

By MR. COLTON:

Q. Did any party, so far as you know, other than Mr. Baackes visit your Donora works from the American Steel & Wire Company, prior to the sale of the Union Company to the United States Steel Corporation?

A. I do not think Mr. Baackes visited the works with that end in view at all, but it is my impression that Mr. Palmer and Mr. Daniels, the engineer of the American Steel & Wire Company, did visit the works just prior to our agreement.

Q. Was that prior to any negotiations between the United

States Steel Corporation and you, so far as you know?

A. No, sir; it was after Mr. Frick took up the negotiations for the United States Steel Corporation to buy the Union Steel Company.

Q. Did Mr. Frick represent both the United States Steel Corporation and your company in this matter?

A. No sir.

Q. Whom did he represent?

A. Mr. Frick represented only the Union Steel Company. He was in an embarrassing position, being interested in both companies, and stated that he would not be active under the circumstances, and for that reason he was very desirous that we sell the Union Steel Company to the Steel Corporation.

Q. He had been in both companies since 1899?

A. You have your dates confused.

Q. How long had he been in both companies?

MR. SEVERANCE: He could not have been in the Steel Corporation since 1899 because it was not organized at the time.

By MR. COLTON:

Q. Since what date had he been in the two companies so far as you know?

A. He had been in the Union Steel Company some time before the organization of the United States Steel Corporation; and of course he was in the United States Steel Corporation at its organization.

Q. He was constantly in both companies up to the time of this embarrassment on his part?

A. Yes. He was not an active director in the Steel Corporation. In fact, I am satisfied the Steel Corporation would not have purchased the Union Steel Company if it had not been that they wanted the advice and assistance of Mr. Frick.

Q. Do you know up to that time that they had not had his advice and assistance?

A. I did not know just exactly how Mr. Frick felt in regard to that matter. I knew that he was not very active in the Steel Corporation.

Q. He was more active in your company up to that time?

A. No; he was not active in our company at all.

Q. Did he furnish considerable sums of money to it?

A. I had all the money that was necessary for our purposes at all times.

Q. Do you know what was the particular occasion that caused him to feel embarrassment at the time?

A. I know that he felt as if he were in a delicate position to be active in the Steel Corporation when we were a competitive concern in several different branches; and he had very much larger interests, of course, in the Steel Corporation than he had in the Union Steel Company.

Q. Oh. He had, at that time, larger interests in the Steel Corporation?

A. Oh, yes; he was a very large holder in the Steel Corporation.

Q. I will read you from a contract that is already in evidence a paragraph concerning which I wish to ask you some questions.

MR. LINDABURY: What contract is that?

MR. COLTON (Reading): "Agreement made this 15th day of December, A. D., 1902, by the United States Steel Corporation, and so forth, party of the first part, and A. W. Mellon, R. B. Mellon, and so forth, parties of the second part."

MR. LINDABURY: Is it the contract taking over the Union Steel Company?

MR. COLTON: It is the contract taking over the Union Steel Company; yes.

MR. LINDABURY: It is the contract by which the Steel Corporation acquired the Union Steel Company?

MR. COLTON: Yes. I wish to read you the tenth paragraph:

"The vendors severally agree with the Steel Company that they, respectively, will not within the United States or the Dominion of Canada, for a period of ten years from December 1, 1902, engage, directly or indirectly, in the manufacture of iron and steel or articles made therefrom now manufactured by the Steel Company, the production of furnace coke, the mining or production of iron ore, except in the territory of Arizona and the State of Florida; excepting, however,

from the terms hereof, the enterprises, if any, in which such parties may now respectively be engaged.”

Have you observed that provision of the contract, so far as you are concerned?

A. I am now pretty active, being president of the Cambria Steel Company.

Q. When did your activity begin in connection with the Cambria Steel Company?

A. Comparatively recently.

Q. Up to that time had you observed that provision?

A. Yes. But that clause was inserted by the lawyers——

Q. (Interposing) That is not the question.

A. (Continuing) And I never regarded it seriously; although I did ask Mr. Farrell whether he had any objection; and he stated not any whatever; to go ahead.

Q. When was it that you had that conversation with Mr. Farrell, about whether you could go ahead or not?

MR. LINDABURY: That is not what he said.

(By request, the stenographer repeated the preceding answer of the witness as follows:)

“A. Yes; but that clause was inserted by the lawyers and I never regarded it seriously; but I did ask Mr. Farrell whether he had any objection, and he stated not any whatever; to go ahead.”

By MR. COLTON:

Q. Well, whether he had any objection to your going ahead?

MR. LINDABURY: You mean the date of the first conversation, if there was more than one?

MR. COLTON: Yes. And I will add to that question: “In connection with the Cambria Steel Company.”

(By request, the stenographer repeated the amended question as follows:)

“Q. When was it that you had that conversation with Mr. Farrell as to whether he had any objection to your going ahead in connection with the Cambria Steel Company?”

A. That was some time last month.

By MR. COLTON :

Q. Did you get the privilege to subscribe to stock in the American Tin Plate Company at the time of your sale of the National Tin Plate Company to the American Tin Plate Company?

A. It is my recollection that we had the privilege of either taking cash or common and preferred stock to the par value of our option price at the time that we closed. I recall that we took all stock.

Q. Is that twice as much stock as the cash value?

A. It is twice as much the par value of stock as the cash price.

MR. LINDABURY: He covered that yesterday, I think.

MR. REED: Yes; and the day before, I think.

MR. COLTON: Yes; but I have another question in connection with that I wish to ask him.

By MR. COLTON :

Q. Did you sell your privilege to take stock in place of cash at that ratio, or a part of your privilege?

A. I sold some of my privileges, yes.

Q. At what rate did you sell the privilege?

MR. LINDABURY: That is objected to as irrelevant and immaterial.

THE WITNESS: I sold the privilege at par, to several of my friends.

By MR. COLTON :

Q. At par for what——

A. (Interposing) That is, for \$10,000 I gave them \$10,000 of preferred and \$10,000 common. Several of my friends wanted a little of the stock, and they received it at that rate.

MR. LINDABURY: By “par” you mean on your subscription rate?

THE WITNESS: Yes; on my subscription rate; at cost to me.

MR. LINDABURY: You let them in on the ground floor?

THE WITNESS: Yes.

By MR. COLTON:

Q. At the time you signed the contract disposing of the Union Steel Company to the United States Steel Corporation, did you know of any merchantable ore in the State of Florida?

MR. LINDABURY: That is objected to as irrelevant.

THE WITNESS: No. I never gave the matter any thought.

By MR. COLTON:

Q. Did you know any?

A. No, sir.

Q. Did you know of any coking coal in either of those states at that time?

MR. LINDABURY: Objected to as irrelevant.

THE WITNESS: No, sir.

By MR. COLTON:

Q. Did you know of any steel works in either of those states at that time?

MR. LINDABURY: Objected to as irrelevant.

THE WITNESS: No, sir.

MR. COLTON: That is all.

CROSS EXAMINATION,

By MR. LINDABURY:

Q. At the time the Sharon and Union properties were amalgamated, had you any purpose, plan or idea, of selling the amalgamated company out to the Steel Corporation?

A. No, sir.

Q. Had you any information or idea that the Steel Corporation was seeking to acquire those properties, or either of them?

A. No, sir.

Q. Was there anything in the business or competitive situation to suggest such an idea to you, or to anybody, so far as you know?

A. No, sir.

Q. There was, I judge from your testimony yesterday,

active competition in the products that you were making, active competition throughout the country, was there not?

A. Yes, sir.

Q. Were wire products your largest output?

A. Yes. The Union Steel Company itself was only making wire products.

Q. And had the output of wire products increased during the two or three preceding years?

A. Yes, sir. There has been a very marked increase in the production of wire products for a long period of years.

Q. Was the Sharon Company also making wire products?

A. Yes, sir.

Q. Had the number of producers of wire products grown during the three or four preceding years; were there more in the business?

A. I do not know that I understand your question.

Q. Had any new manufacturers of wire products entered the field within three or four years?

A. Yes, sir.

Q. Had there been any increase in the production of the various wire manufacturers during that time?

A. Yes, sir.

Q. And had that increase been general? I mean spread around among them, and not confined to any one or two?

A. No; they had all grown, and several were new concerns.

Q. And was competition active among them?

A. Yes, sir.

Q. Very general?

A. Yes, sir.

Q. And covering all parts of the country?

A. Yes, sir.

Q. Was there any combination or pool or anything of that sort existing?

A. No, sir.

Q. I think you said that next to the American Steel & Wire Company your product was the largest in wire goods.

A. Yes, sir; I think that would be.

Q. But you named several others that were close to you?

A. Yes. The others had slightly smaller mills.

Q. Then there were quite a number of those?

A. We started out with a single rod mill, and when we made our contract with the Carnegie Steel Company we were compelled to double that plant in order to make a satisfactory contract with them. So that we had really two rod mills, whereas the others only had one.

Q. Was there anything in the character or amount of your output, or in your method of doing business, to make your business more dangerous to the Steel Corporation than that of these other manufacturers of similar lines?

A. No, sir.

Q. Was there anything in the attitude or methods of the Steel Corporation to lead you to think that they were likely to endanger your prosperity?

A. No, sir. We were not afraid of them in that respect, as we had a mill we thought was their equal, and in making steel from the raw materials to the finished product we felt we could manufacture just as cheaply as they could.

Q. Was there anything in the situation to indicate that the taking over of the Union by the Steel Corporation and the operation of that in connection with their own plants, as against other manufacturers, would tend at all to restrain trade in any way?

MR. COLTON: I object to that as calling for a general conclusion, and also as involving a question of law.

MR. LINDABURY: I mean by restraining trade, restraining it in fact and not in law; not technically, but actually to restrain or lessen it.

MR. COLTON: The same objection.

MR. LINDABURY: I will withdraw the question and make it shorter.

By MR. LINDABURY:

Q. Was there anything in the business situation or connected with the Steel Corporation or the Union plant to indicate that the taking over of the Union plant by the Steel Corporation and the operation of that in connection with

their own would tend to stifle competition or restrain trade in steel products?

MR. COLTON: Same objection, and also on the ground that it calls for certain circumstances that are not shown to exist, and that the witness has not been shown to have a knowledge of.

By MR. LINDABURY:

Q. Please answer the question.

A. What was the question?

(The stenographer repeated the question as above recorded.)

THE WITNESS: I would say that there was not, for this reason: Mr. Frick, in taking up the negotiations, was very much afraid that he could not induce the Corporation to take over the properties, and they made a very careful examination of our ore properties and of our plants, as to what we had, before recommending it. I recall that the American Steel & Wire Company were desirous of having our rod, wire and nail mills, owing to the fact that business was increasing very rapidly, and still more so owing to the fact that they wanted to abandon the Oliver Rod, Wire and Nail Mill on the South Side. Then the Carnegie Steel Company were especially anxious to take over the open-hearth steel works because they were very short in——

MR. COLTON: I object.

MR. LINDABURY: Go on.

THE WITNESS: (Continuing). Because they were very short in open-hearth steel, Bessemer being largely superseded by open-hearth, and they were anxious that the property be taken over so that they could supply Donora with Bessemer steel and ship the open-hearth steel to Homestead, and their various works, where they were short of this product, and that was done after the plants were taken over.

By MR. LINDABURY:

Q. Was the amount of steel produced lessened in any way after the Union was taken over; was the production of

the country lessened in any way as to steel products after that, or did it continue to increase as it had before?

A. It continued to increase—

MR. COLTON: (Interposing). I object to that as irrelevant. The question should be whether the plans were carried out with the same rapidity that they were being developed at that time, and not whether there was a general increase in the country's production.

MR. LINDABURY: I will ask you a question after this is answered, in view of my brother's objection. I think you were interrupted in your answer. I will ask the stenographer to read the question and the answer as far as it was made.

(The question and answer as given, as hereinbefore recorded, were read aloud by the stenographer.)

By MR. LINDABURY:

Q. Go on.

A. Although there may have been temporary slow-ups in business, as there always are in the steel business.

Q. Has the prosperity of the independents or manufacturers outside of the Steel Corporation gone on increasing as it had before?

MR. COLTON: I object to that on the ground that the witness has not been shown to be familiar with the steel business since signing that contract, or the condition of independents.

By MR. LINDABURY:

Q. Well, I will find out. Do you know generally about the steel business since the sale of the Sharon, as to whether it has grown or shrunk away, or whether the independents have shriveled up or been crushed?

A. They have been pretty active concerns, and very prosperous.

Q. And has the general product of the country gone on increasing?

A. Yes, sir.

Q. Now, I will ask you a question to satisfy the Govern-

ment's counsel, as indicated by the criticism on my question of a moment ago, and that is whether or not, after the sale of the Union to the Steel Corporation, they went on developing the properties so acquired, or whether they gave up and abandoned all their projects for the increasing of that property.

A. I am not very familiar with Sharon, as I have not been in Sharon to go through the works since the Corporation took over the property; but I have been in Donora a number of times, and naturally have visited the works. They have gone ahead with improvements of various kinds, and more than fully maintained the property. There was a rather restricted business for a year or two, just after the United States Steel Corporation took over the property, and matters were not rushed on account of the business depression, but they completed the steel plant and operated it, sending the open-hearth steel to their various finishing mills where open-hearth was required, and sending the Bessemer steel to Donora for the rod, wire and nail mill, where it could be utilized to advantage. That, however, has ceased, and now I think for several years the American Steel & Wire Company have been operating the steel plant and blast furnaces as I originally intended.

Q. Do you happen to know how much has been spent in developing the Union plant since the Corporation bought it?

A. We agreed to contribute \$6,856,441.77 to complete the Union Steel Company plant, as required. They called on us for all of that money, and it is my understanding that they have spent something like \$10,000,000 in addition.

MR. COLTON: I object to the last statement on the ground that it is not shown that that understanding rests on any personal knowledge, and I move to strike out that portion of the answer.

THE WITNESS: That can very easily be ascertained by the Steel Corporation reports. That is where I got my information. I think they sold the additional bonds for improvements.

By MR. LINDABURY:

Q. You have visited the properties and know from observation whether such a sum has been spent, at least approximately?

A. I am not familiar enough with the Sharon plants to say.

MR. LINDABURY: Perhaps we might as well suspend here.

(Thereupon, a recess was taken until 2:00 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

WILLIAM H. DONNER,

the witness under examination at the taking of recess, resumed the stand for further

CROSS EXAMINATION (Continued)

By MR. LINDABURY:

Q. Mr. Donner, you testified this morning, as follows:

“We agreed to contribute \$6,856,441.77 to complete the Union Steel Company plant, as required. They called on us for all of that money, and it is my understanding that they have spent something like \$10,000,000 in addition.”

Whom did you mean by “we”?

A. The sellers. That is, the sellers——

Q. (Interposing) Of the plant?

A. Of the Union Steel Company's side of it. That was——

Q. (Interposing) And with whom did you agree—the Steel Corporation?—to make that contribution?

A. That was made in our agreement with the Sharon Steel Company. Our work was in process of construction, a large part of it, and it was estimated that it would take that amount to complete it.

Q. The works?

A. It says this (Reading):

“Cash to be contributed for estimated expenditures yet to be made towards completing the plant according to present plans and working capital, which amount the parties of the first part are to pay as the same from time to time is required and called for by the board of directors. Any part not paid in by July 1st, 1903, to bear interest at five per cent per annum, deducting, however, from this amount all moneys advanced to Union since October 31, 1902.”

Q. Is the amount mentioned?

A. Yes, sir. That is in the Sharon-Union agreement.

Q. And what is the amount—the one you gave this morning?

A. Yes; \$6,856,441.77.

Q. Did you furnish that money?

A. Yes, sir.

Q. When?

A. After the Steel Corporation took over the properties.

Q. That is, it became the beneficiary, as purchaser of that contract?

A. Yes, sir.

Q. And you paid in that money afterward to the Steel Corporation as and when required, pursuant to the terms of the Sharon agreement?

A. Yes, sir. The plans——

Q. (Interposing) I do not care for any more than that. You furnished the money after the Steel Corporation took the property over?

A. Yes, sir.

Q. You stated Mr. Frick's position. Mr. Frick was a practical steel maker, was he not?

A. Yes, sir; he had been chairman of the board of the Carnegie Steel Company for years.

Q. Well, he had grown up in the business, had he not? I mean he had been a long time in the business?

A. Yes, sir; he had been in the business a great many years.

Q. And understood it from a practical standpoint, did he not?

A. Yes, sir.

Q. He had been very active in the actual operation of the Carnegie plants, had he not?

A. Yes, sir.

Q. He was a partner of Mr. Carnegie?

A. Yes, sir.

Q. For a good many years, when the Carnegie partners operated the Carnegie properties; that is right, is it not?

A. Yes, sir.

Q. He was one of the most active and foremost steel makers of that time, was he not?

A. Yes, sir.

Q. He had not been active, however, had he, for some years before this sale to the Steel Corporation?

MR. COLTON: Just one moment before answering that question. I object to his answering other than regards his own company, on the ground that he has not been shown to have knowledge of Mr. Frick's action, other than in regard to the Union Steel Company.

MR. LINDABURY: That is common knowledge. You know that, and all of us do. Everybody knows Mr. Frick's activity as a steel maker.

MR. COLTON: I do not refer to that question, but to your last question.

(Upon request, the stenographer repeated the last question as follows:)

“Q. He had not been active, however, had he, for some years before this sale to the Steel Corporation?”

MR. LINDABURY: I mean personally active in the actual operation.

A. I think he was quite active prior to the organization of the United States Steel Corporation, and he was in a manner very closely associated with the United States Steel Corporation; and yet he was not what you might call an active director.

By MR. LINDABURY:

Q. Do you remember a disagreement between Mr. Carnegie and Mr. Frick in 1900, resulting in a litigation between them?

A. Yes, sir.

Q. That was the year, was it—1900?

A. I think that was the year; it was either 1900 or 1901—it must have been 1900.

Q. That was a well-known and very bitter affair, was it?

A. Yes, sir.

Q. You spoke of Mr. Frick's attitude with respect to selling out. What was your own personal attitude in that matter?

A. I was very anxious to sell the properties, from the fact that I was largely in debt, and it gave me a chance to clean up.

Q. Who made the advances toward a negotiation for the sale of the property; I mean which side?

A. Our side made the advances.

Q. Do you know how they were received by the Steel Corporation's officials?

A. Yes, sir.

Q. Tell us.

A. I know that Mr. H. H. Rogers and Mr. Ream were very much opposed to the buying of Union Steel.

Q. Do you remember whether or not they were members at that time of the executive committee or finance committee of the Steel Corporation, whichever committee was then in control?

A. I remember they were members of the board, but just which committee, I could not state. Judge Gary, I know, was also adverse to the buying of the property, but was very anxious to have Mr. Frick's advice and counsel in the Steel Corporation, and for that reason was willing to take over the property upon a basis of what they considered a fair valuation, which disagreed, however, from the valuation that Sharon and ourselves had placed on the property.

Q. How do you happen to know of the opposition of these directors to the purchase?

A. I talked with them. Judge Gary told me if it had not been that he wanted Mr. Frick, wanted his advice and counsel in the Steel Corporation, he would not have favored the purchase.

Q. Did you talk with Mr. Rogers and Mr. Ream?

A. Yes; but only slightly.

Q. However, enough to know that, at first, the officials of the corporation were averse to it?

A. And they questioned very much whether they could use the plants to advantage. When, however the condition of their open-hearth capacity was explained, and it was understood that our finishing mills could use Bessemer, that had quite an important bearing on their taking over the properties; because, you see, they needed the open-hearth steel—

MR. COLTON: Just a moment. I object to his stating that they needed the open-hearth steel, without its first being shown that he has some familiarity with their needs.

MR. LINDABURY: I will show that later.

By MR. LINDABURY:

Q. Finish your statement.

A. I say that had quite an important bearing on their taking over the property, because they needed the open-hearth steel, and had a surplus of Bessemer steel; Bessemer steel being gradually displaced by the open-hearth in many lines.

Q. How did you become acquainted with those facts? In other words, did you know what, if any, open-hearth facilities they had?

A. I knew they were short. Anyone in the steel business knows that there has been a shortage of open-hearth steel for some years. It is gradually displacing the Bessemer. Mr. Frick, of course, thoroughly understood that situation.

Q. Had you talked with him about that; and about the arguments that might be used with the Steel Corporation?

A. Yes, sir.

Q. What was said?

MR. COLTON: I object to that, on the ground that it is hearsay, and incompetent, irrelevant and immaterial.

MR. LINDABURY: I will put it this way:

By MR. LINDABURY:

Q. What was agreed between you and Mr. Frick, or you and any other of your associates in the Union Steel, as to the matter of presenting the question to the Steel Corporation, and as to their probable needs, and the use they could probably make advantageously of the Union's properties?

MR. COLTON: I object, on the same ground.

THE WITNESS: Mr. Frick was very anxious that the property be sold to the United States Steel Corporation, but was not at all certain that he could accomplish the sale. He gave, however, as his reasons, the fact that they really needed the open-hearth capacity, and could use to advantage the blast furnaces that we had. He was very much more anxious to sell than the Mellons. In fact, they were rather loath to sell; and yet they were anxious to comply with Mr. Frick's wishes in the matter.

By MR. LINDABURY:

Q. You had what open-hearth facilities then?

A. We had at Donora twelve open-hearth furnaces and the mixing furnace; and they had twelve open-hearth furnaces, as I recall—I would not be positive as to that number—at Sharon.

Q. Making 24?

A. We were making a product in which Bessemer steel, at that time, could be used just as well as the open-hearth.

Q. How was the possession of those properties at Donora and Sharon of special value, at that time, to the Steel Corporation?

A. I would say that they were of great advantage to the Steel Corporation, owing to the fact that it gave them immediately a large and increased production of open-hearth steel, of which they were short; and, in fact, the whole country was short; and of course they could utilize our finishing mills and the furnaces.

Q. Were they in need of such finishing mills at that time, as you understood?

A. I understood that they could use the rod, wire and nail mills to good advantage.

Q. Do you remember when the negotiations were completed and the agreement was reached?

A. Yes, sir.

Q. Tell us.

A. It was reached on December 15th.

Q. We have a contract bearing a date there, but I am not asking you with respect to when the contract was signed. I am asking when the minds of the parties met which I presume was before that.

A. No; I think we agreed on that day. There was considerable controversy only over the value of the ore. The value of the coking properties and the coal properties was conceded, and the mills were put in at cost. The valuation, however, of \$10,000,000 on the ore was gone into very carefully. In fact, the United States Steel Corporation had had me give maps and all the information I had in regard to the ore mines, and Judge Gary insisted on a reduction of \$1,500,000 from the base value on which Sharon and ourselves had agreed.

Q. So you put the mining properties in at that much less than they had been put together in the merger?

A. At that much less than they had been put together in the merger between the Sharon and ourselves; yes sir.

Q. And I understood you to say that when you made that merger you put them in at what, after a good deal of consideration, you then on both sides thought was their fair value?

A. Yes, sir.

Q. What do you say now as to whether those properties were worth the amount at which they were sold to the Steel Corporation? I am speaking of the mining properties.

A. I would say they were undoubtedly worth the amount that the Steel Corporation paid, and I think they were worth really the amount that we had scheduled or more.

Q. You spoke of the coal or coking properties that you had and that you sold: What did they cost, with all improvements and expenditures up to the time of the sale?

A. Figuring the bonds as worth par in our merger, we received \$2,880,000 for the Republic Coke Company, consist-

ing of 3,212 acres. That gave the Union Steel Company—I refer to myself and associates—a profit of \$1,665,418.41. This coal was put in at \$900 an acre, which was considered a conservative value as of that date.

Q. It had appreciated that much, had it, after your purchase?

A. Yes, sir; it had appreciated. Really, at the time, it was no doubt worth more than the basis I have given you at that time; although I was allowed to go in and take a one-fourth interest on that basis. The Klondike Coke region, however, was a new territory, and developed very rapidly. Coke at that price was selling very much lower than in the Connellsville region, and of course it sells very much higher today than that price—than the \$900 an acre.

Q. What was this projected railroad, about which you were asked? About what was the length of it?

A. I would not want to state that without looking it up. It was a comparatively short line.

Q. Could you approximate it?

A. I would rather not approximate it. I could look it up and tell you.

Q. Perhaps you could tell us whether it was ten miles long or a hundred miles long, or half of that?

A. It was more than ten miles, and it was less than 100 miles; considerably less.

Q. Thirty or forty miles, perhaps?

A. This is purely a guess, now, but I would say that it was 25 to 40 miles long.

Q. The manufacturing plants, I understood you to say were put in at cost in the merger, and at cost to the Steel Corporation?

A. Yes, sir.

Q. Were there added profits put into the sale?

A. We received bonds for our profits. The Union Steel Company, up to the time of the sale,—that is, our portion of the Union Steel Company,—had earned \$1,167,776.01.

Q. That remained in the treasury?

A. That remained in the treasury; for which we received bonds at par.

MR. DICKINSON: Was that in addition to the purchase price?

THE WITNESS: That was a part of the purchase price.

MR. DICKINSON: I wanted to know if that was a part of the whole price?

THE WITNESS: That was a part of the \$25,000,000 odd that our interest received.

By MR. LINDABURY:

Q. What examination did the Steel Corporation make of your properties, for the purpose of ascertaining the fairness of the price asked?

A. They had some of their representatives visit the mills, both at Union and Sharon. The coke and coal properties, of course, they were very familiar with, and they did not require a visit, as they had that information. They had the information, that coal being so located that it was well known. They had me go to Duluth, with the maps of our mines, and all of the drillings, and had their representatives make a very careful examination of what we had developed in our exploratory work, and figured the maps so as to arrive at the quantity of ore that we had.

Q. You spoke of representatives of the Steel Corporation visiting the Union plant or the Sharon plant. Were these visits before or after the negotiations opened for the sale to the Steel Corporation?

A. They were after the negotiations were opened, although no doubt they had had representatives—I know they had been visited in a friendly way, and they were familiar, in a way, with what we had, as well as Sharon.

Q. There was nothing unusual about that?

A. Oh, no; just like we would be familiar with what they were doing.

Q. And those were visits of a kind quite independent of any thought of sale?

MR. COLTON: I object on the ground that, unless he testifies further as to what those visits were, he is not shown to have any knowledge as to the purpose for which those visits were made.

By MR. LINDABURY:

Q. Were those visits anything out of the ordinary, or anything other than those friendly visits which are made by the representatives of one steel plant to another?

A. No, sir; and there were not as many visits as I and my engineers made to their plants.

Q. You spoke of the advantages that you thought would come from the amalgamation of the Sharon and the Union. Will you state again what you thought those were?

A. We felt that some economies could be effected by selling our products together and by shipping the orders that went west, from Sharon, whereas those that went east would go from Donora. We also felt that our orders in some lines could be classified to a little better advantage by having the two plants, so as to give us a little better operations, from the operating standpoint.

Q. Is it an advantage to have plants in different parts of the country producing some such articles as you were making, rather than to have them all together in one place?

A. Oh, there is a decided advantage in this respect: steel products are sold delivered, and the freight is generally a very important item, and it is only business to ship the products from the mill which has the lowest rate of freight, so as to make the saving in the freights in that respect.

Q. Is it of considerable advantage to a steel manufacturing concern to have plants in the neighborhood of Chicago, let us say, to supply the western territory, and in the neighborhood of Pittsburgh to supply the eastern territory?

A. Yes, sir; that is undoubtedly an advantage.

Q. How much of an advantage is that?

A. Well, in many instances it would amount to more than a dollar a ton. I ought to be familiar with that. I would like to look it up and give it to you.

Q. Do you know what the freight rate is on steel products from Pittsburgh to Chicago?

A. It is eighteen cents a hundred, and to New York it is eighteen cents a hundred, from Pittsburgh, as I recall. The rate from Chicago to New York would not be thirty-six cents.

Somebody here ought to know that. I cannot recall those rates. They are a matter that can be easily ascertained.

Q. It is a considerable item, is it not?

A. It is a very considerable item, yes.

Q. Is large scale production in the steel business economical?

A. I do not know just what you mean by that.

Q. I mean rather than manufacturing in small quantities, at small plants.

A. A mill has to be a certain size to be an economical unit; but take a mill, for instance, of 40,000 or 50,000 tons of ingots per month, that is designed properly and operated properly; it ought to compete with the Steel Corporation in any of their plants.

Q. What do you say of the advantages of integration, owning everything from the ore to the finished product?

A. For the real economical manufacture of steel, there is no doubt you have to go from the ore to the finished product. A few years ago the pig iron was produced one place, and after cooling, shipped to another; freight was paid on it, and then it was converted into steel, which made a waste not only of freight, but the extra expense of handling and rehandling the metal, and also the extra cost of reheating it. The Steel Corporation no doubt has taken advantage of all those things, as well as any of the modern works.

Q. What do you mean by "as well as any of the modern works?"

A. Well, Jones & Laughlin—

Q. Oh, you mean others have also?

A. Yes, sir.

Q. That principle of integration was a distinct advance, was it not, in the manufacture of steel—this acquisition of everything from the raw material up to the control of all the processes?

A. Yes, sir; there has been a great improvement in the practice in the last ten years; there is no doubt of that.

Q. You had done the same thing at Donora, had you not, or were preparing to do it?

A. We were preparing to convert the ore into finished products.

Q. Is a diversity of finished products desirable?

A. Yes, sir.

Q. Why?

A. Well, occasionally the market is very active in certain lines of finished steel, whereas there is not a demand in other lines, and if you have a diversified product, you can manufacture your steel into the product that the general demand requires.

Q. Requires at the time?

A. Yes, sir. And those are subject to very marked fluctuations; there are marked fluctuations in the steel business.

Q. Sometimes one article is needed and sometimes another, you mean?

A. Yes, sir.

Q. So that a concern that can make the one or the other, as the market demands, can keep going, whereas it might otherwise have to stand still at times?

A. Yes, sir.

Q. How about the foreign trade; is the manufacture of diversified products on a considerable scale, with combined selling agencies, of advantage in the foreign trade?

A. Yes, sir; very materially so. In fact, the foreign trade is frequently sold on very close margin, and if the manufacturer is not the most modern and economical, he would not be in a position to compete.

Q. Do you know whether or not the plants of the Steel Corporation are modern and scientifically designed and arranged?

A. Yes, sir.

Q. And as highly so as any that you know of?

A. Yes, sir.

Q. Are they able, because of their various locations and designs, to practice economies that small concerns can not practice? I do not mean them alone, but any large concern like that. I presume there must be savings that they can make.

A. I would say that there are some savings that they may

make, but very few that a concern like Jones & Laughlin or the Lackawanna Steel or Cambria Steel or concerns of that type could not take advantage of.

Q. I did not mean to allude to those, but to smaller ones. I suppose the larger ones can manufacture, because they can practice economies that the smaller ones cannot, cheaper than the small ones.

A. Yes; there is an advantage in having a comparatively large unit.

Q. You alluded to Cambria and Jones & Laughlin and the Lackawanna and Pennsylvania—

A. And the Republic Steel.

Q. Those are all pretty well integrated, are they not?

A. Pretty well what?

Q. Integrated. They own the ore?

A. Oh, yes. They all manufacture from the raw material to the finished product.

Q. All the way through?

A. Yes, all the way through.

Q. Is there any one of those you have just named that could not hold its own in any competition with the Steel Corporation?

MR. COLTON: I object on the ground that the witness has not been shown to be familiar with that during recent years.

MR. LINDABURY: I think he is.

A. I do not think there is any one of those companies that could not compete with the United States Steel Corporation.

By MR. LINDABURY:

Q. And compete successfully?

A. And compete successfully. The Steel Corporation is not able to build any better mills than the independents. I think the Steel Corporation has the cream of the coking coal and of the ore, but they have too shrewd a business management to give that away at less than its worth.

Q. That is, that would be wasting their future?

A. Yes, sir.

Q. These other concerns all have proportionately large supplies of both ore and coal, have they not?

A. Yes, sir.

Q. When did you become president of the Cambria Steel Company?

A. Some time last month.

Q. And also chairman of the board of directors?

A. No sir; I am not chairman of the board; there is no chairman of the board. There is a chairman of the executive committee.

Q. Who holds that position?

A. Mr. Morris.

Q. But you are the president of the company?

A. Yes.

Q. And you are also, I presume, a stockholder in the company?

A. Yes, sir.

Q. A very considerable one, are you not?

A. Yes, sir.

Q. Have you lately invested largely in the stock of that company? By "lately" I mean in connection with your assuming the presidency.

A. Yes, sir; I have purchased some stock since then.

Q. Were you a stockholder before then?

A. Yes, sir.

Q. And have been for some time?

A. Yes, sir.

Q. Is the Cambria projecting improvements?

A. Yes, sir; we have some improvements that are in contemplation.

Q. On quite a considerable scale, are they not?

A. Yes, sir.

Q. For the purpose of increasing the output of the company?

A. I expect to see the output increased considerably in the next—

Q. (Interposing). The next few years?

A. The next few years; yes, sir.

Q. Do you know how much it increased during the last ten years, approximately?

A. I know that we made 40 per cent more steel in August than any other August in its history.

Q. That is something. But could you tell us approximately how much more, for instance, you made during the last year than during a period ten years ago?

A. I can look that up and give it to you exactly.

Q. Perhaps you could tell us whether it is two or three or four times as much?

A. No; it is not that much, nor any percentage like that. It may be twice as much, but not more than that, I should think.

MR. LINDABURY: That is all.

REDIRECT EXAMINATION,

By MR. COLTON:

Q. Are you a stockholder or a bondholder in the United States Steel Corporation?

A. No, sir.

Q. Or any of its subsidiary companies?

A. I am a comparatively small bondholder in the Union Steel Company; that is, I have some of the bonds I received in the sale to the Steel Corporation.

Q. Could the Illinois Steel Company, by reason of its situation, operate any cheaper after than it could before it was absorbed by the United States Steel Corporation?

A. I would say that it did.

MR. LINDABURY: And therefore I suppose that it could.

By MR. COULTON:

Q. By reason of its situation?

(By request of the witness the stenographer repeated the preceding question as follows):

“Q. Could the Illinois Steel Company, by reason of its situation, operate any cheaper after than it could before it was absorbed by the United States Steel Corporation?”

THE WITNESS: By reason of its situation? The situation would be the same, I think. Do you mean, by the use of that word "situation," its location?

MR. COLTON: Its location, yes.

By MR. COLTON:

Q. Was it any better off in respect of rates of freight after than it was before it was absorbed by the United States Steel Corporation?

A. The rates of freight, I think, are approximately the same; but it would receive orders for its various products to points where it had an advantage over the plants of the Steel Corporation, for instance in Pittsburgh; whereas, before, Pittsburgh would no doubt take orders in the West and the Illinois Steel Company take orders in the East. There would be a crossing of their lines.

Q. Then that competition that formerly existed between the Carnegie Steel Company and the Illinois Company would have ceased in that respect?

MR. LINDABURY: I object to that. That is not an inference.

THE WITNESS: The Steel Corporation would take the orders and then give them to the mill which they could use to best advantage; and if it was a point between Pittsburgh and Chicago that took the same rate of freight from either point, for instance, they would give it to the mill that could use the order to the best advantage.

By MR. COLTON:

Q. Would there be any competition between those mills in respect to those orders?

MR. LINDABURY: I object. Of course there would not when they were both owned by the same interests.

THE WITNESS: They would be worked in perfect harmony as a unit.

By MR. COLTON:

Q. Does the Cambria Steel Company own any roads carrying ore from the Lake Superior district to the lakes, or from the lower lake ports to the Cambria Steel Company's works?

A. No, sir; and as I told you that was the only point in which I thought the Steel Corporation had any advantage over the independents.

Q. Explain that advantage and what it is.

A. The United States Steel Corporation owns ore-carrying roads, and of course they are not interested in a reduction of rates from the iron ranges to the lake; whereas it would be an advantage to the other companies if the freight were lower.

Q. Does the Cambria Steel Company own any mines in the Lake Superior District?

A. Yes, sir.

Q. Does it own any mines with traffic agreements with either of the Corporation's railroads?

A. There is a traffic agreement between the Mahoning Mining Company, as I recall, and the Hill interests, but it is not one in which the royalty was advanced as the freight rate declined.

Q. Explain how the royalty does work in that lease.

A. The royalty is 25 cents a ton, when a certain quantity of ore is shipped, and decreases as the quantity is increased to, I think, 12 or 15 cents per ton.

Q. Do you know of other leases of that character in that region with other railroads than the Hill interests?

A. I think there are some leases of that description.

Q. Are there with one or the other of the corporation's railroads?

A. I do not know.

Q. Do you know of any one of the large independent companies, such as the Lackawanna, Jones & Laughlin, or the Republic Iron & Steel Company that owns roads that carry ore from the Lake Superior district to the Lake ports, or to the lower lake ports, and from there to various steel works?

A. No, sir.

Q. How do you know that Mr. Frick came to you in regard to the sale of the Union Steel Company to the Steel Corporation before he had been approached by parties connected with the United States Steel Corporation or the American Steel & Wire Company?

A. Because Mr. Frick made that statement; and he is a man that I have the utmost confidence in.

Q. Did he say that he had not been approached?

A. He did not say that he had not been approached; but he wanted us to sell, and he approached us.

Q. What did he say?

A. He stated that he would like very much if we would consent to sell the Union Steel Company to the Steel Corporation; that he was in an embarrassing position on account of his large interests in the Steel Corporation, and that financial conditions did not look very good; that he thought it might be very close in the next year or two, and that while we would undoubtedly make money in the Union Steel Company, he thought that we could afford to sell if we could get a fair value, and that he would like very much if we would consent to the sale. The Mellons were very loath to agree to a sale on anything like the basis of the Sharon and Union agreement, and there was a great deal of argument in regard to the matter. I was personally in favor of selling, but it took a great deal of work on Mr. Frick's part to induce the Mellons to sell.

Q. Is that all that Mr. Frick said to you on the subject of previous negotiations?

A. He stated, also, that if we would agree to sell he would take the matter up immediately with the corporation; and, in pursuance of that conversation, he did take the matter up with them, and I was asked to give all the information I had in regard to our ore properties and the mills, and, in fact, everything I knew in regard to our properties.

MR. COLTON: I ask to have the question repeated by the stenographer.

(The question was read as follows:)

“Q. Is that all that Mr. Frick said to you on the subject of previous negotiations?”

MR. LINDABURY: You mean all that he said in respect to previous negotiations, or whether there had been any?

MR. COLTON: Or whether there had been any, yes.

THE WITNESS: He was paving the way to take the negotia-

tions up; but he was not in a position to take them up without first consulting the Mellons and myself; and, of course, would not have acted without our consent.

MR. COLTON: I ask to have the question read again by the stenographer.

(The question was read as follows:)

“Q. Is that all that Mr. Frick said to you on the subject of previous negotiations?”

THE WITNESS: What I was giving you were the negotiations previous to Mr. Frick taking the matter up with the Steel Corporation.

By MR. COLTON:

Q. Did Mr. Frick say anything as to whether he and the corporation had had any negotiations in respect to a prospective sale of the Union Company to the United States Steel Corporation, one way or the other?

A. I know that he had had no conversation, because he was very fearful lest he could not induce them to take over the properties.

(By request of Mr. Colton, the stenographer repeated the question.)

MR. LINDABURY: It seems to me the witness has answered it.

MR. COLTON: I ask for an answer to the question.

(The question was repeated by the stenographer as follows:)

“Q. Did Mr. Frick say anything as to whether he and the corporation had had any negotiations in respect to a prospective sale of the Union Company to the United States Steel Corporation, one way or the other?”

THE WITNESS: I am sure he had had no conversation——

MR. COLTON (Interposing): That is not the question.

MR. LINDABURY: Do not interrupt his answer.

MR. COLTON: Go ahead.

THE WITNESS: I am sure that he had had no conversation,

and it would have been a ridiculous question for me to have asked him, in view of the information that he had given me, and the questions that he had asked.

(By request of Mr. Colton the stenographer again repeated the question, as follows:)

“Q. Did Mr. Frick say anything as to whether he and the corporation had had any negotiations with respect to a prospective sale of the Union Company to the United States Steel Corporation, one way or the other?”

THE WITNESS: I do not just understand what you mean.

(The stenographer again repeated the question.)

THE WITNESS: He did not state that, in answer to your question specifically; but from the general conversation I am sure that he did not have.

By MR. COLTON:

Q. Give all you can of that general conversation from which you draw that inference, in order that we may also draw the inference in respect of the matter.

A. Mr. Frick seemed very doubtful whether he could make the sale of the Union Steel Company to the Steel Corporation, and after securing the Mellons' consent to the sale, and also my own, he wanted to know what advantages, if any, there would be in the Steel Corporation owning the Union Steel Company, and whether there could be any other than that of securing modern finishing mills and blast furnaces which they could use, and our open-hearth furnaces, which he knew they were short of, and in urgent need of. The conversation of course occurred so long ago that I cannot recall everything that was said, but I know that Mr. Frick was personally very anxious to have the Steel Corporation acquire the Union Steel Company, as he felt in a very awkward position in regard to his position in the Steel Corporation, and he was very much more anxious that the deal should be consummated than the Mellons were. In fact, if Mr. Frick and the Mellons had not been very close personal friends, I am sure the Mellons would not have consented to the sale.

Q. Is that all?

A. Yes, sir.

Q. Why did you consider the Union-Sharon merger terms as the basis for the sale?

A. Because we thought that was a fair valuation of the properties.

Q. Did you sell the properties at less than you thought they were worth?

A. No, sir. I think they were sold at a price they were well worth.

Q. Ore and all?

A. Ore and all; yes, sir. I think it was a conservative value.

Q. You answered some questions for Mr. Lindabury, I think, looking at that paper. What is that paper?

A. That is the paper that you asked me to prepare.

Q. What is it?

MR. LINDABURY: I have not seen it. May I see it?

MR. COLTON: Certainly. I do not know what it is about.

MR. LINDABURY: You asked him to prepare it.

MR. COLTON: I asked him to prepare it, yes.

By MR. COLTON:

Q. That is the appraised valuation, is it?

A. No; you asked me to prepare a sheet showing the profits that we made on the sale to the Steel Corporation.

Q. Will you state the profits that you made on the sale to the Steel Corporation?

A. I am alluding now to the property that was owned by the Mellons, Mr. Frick and myself.

Our investment, including cash paid in, real estate, as per contract, cash contributed to complete improvements, and deferred payments assumed as per agreement, amounted to \$18,853,534.34.

Our earnings from operations up to December 1, 1902, were \$1,167,776.01.

That makes a total investment of \$20,021,310.35, for which we received Union Steel Company bonds, guaranteed by the United States Steel Corporation, amounting to \$25,214,288.41.

Of course the odd dollars and cents were settled in cash.

In the amount of \$25,214,288.41 there was no profit on the cost of our plants, but there was a profit on the companies, as set forth in the contract as follows:

Profit on the sale of

River Coal Company.....	\$ 360,194.88
Republic Coke Company.....	1,665,418.41
Donora Mining Company.....	3,079,864.77
Allowance	87,500.00

That makes the total that we received \$25,214,288.41.

It should be borne in mind that while we paid in cash \$20,021,310.35, we received no cash, but bonds of a par value of \$25,214,288.41, guaranteed by the United States Steel Corporation.

Q. What per cent of interest did those bonds bear?

A. Five per cent.

Q. And by turning in cash, do you mean turning in that land at that value as cash, or do you mean that you turned over to the Corporation that amount of real cash?

A. No; that amount of cash represented our earnings of \$1,167,776.01, which was part cash and part accounts receivable and part material in process of manufacture.

MR. LINDABURY: But it remained in the Corporation?

THE WITNESS: Oh, it remained in the Corporation, and the mills had been built and represented that amount of cash.

By MR. COLTON:

Q. How near to completion were the blast furnaces?

A. I think they could have been completed within something like four months.

Q. Do you know how many months it was before they were completed?

A. There was a business depression; and, as I recall, those matters were rather held in abeyance and not rushed to completion.

Q. Do you know about how long it was?

A. I cannot tell you that, Mr. Colton.

Q. They were in urgent need of open-hearth steel——

A. (Interposing). The open-hearth steel plant was completed before the blast furnaces.

Q. Do you know how long it was before it was completed?

A. No, sir; I could not tell you; but that work was continued on.

Q. Do you know how long it would have taken you to complete the open-hearth furnaces at the time of the merger?

A. I should think about the same length of time. Possibly I may be a little short on that time.

Q. How far had you proceeded with the building of the open-hearth furnaces?

A. Oh, the building was erected and the furnaces were in process of erection.

Q. Which is the main part of a furnace, the furnace or the building?

A. The furnace is.

Q. How long does it take to build an open-hearth furnace?

A. That depends very largely on conditions, on labor conditions——

Q. I mean on the then conditions.

A. I would say that the time I gave you was a fair time for the completion of the plant.

Q. It is not a question of completion; I mean building the plant outright.

A. The building of a new plant outright?

Q. Yes; suppose you had the land at an existing plant. I mean building open-hearth furnaces at an existing plant.

MR. LINDABURY: How many?

THE WITNESS: Twelve?

By MR. COLTON:

Q. Twelve, the same number you had there—50 gross tons.

A. Well, it would take, I would say, from a year or upwards, according to your ability to secure machinery and materials. There are times when you can build more rapidly than others.

By MR. COLTON:

Q. How long had you been engaged in the building of those open-hearth furnaces before they were turned over to the United States Steel Corporation?

A. I think about a year; but conditions with us had been very bad for building promptly. I started the Union Steel Company on a farm where there were absolutely no houses, and we had to bring in all of our labor and build a town in connection with our works, and we had a rod, wire and nail mill that was of more importance than the steel works, so that our energy was devoted more toward that end of our operations. I might add that we were in no hurry for steel, as we had a contract that assured us of our supply.

Q. How long would it take a company—a strong company, that was able to acquire its raw materials and already had the ground,—to build such furnaces in connection with an existing plant?

A. With business conditions as they are today?

Q. No; with business conditions as they then were; and assuming that they had the money.

A. I think a year would be very good work.

Q. Did Mr. Frick make any objection to the merger of the Union Company with the Sharon Company?

A. No, sir.

Q. He made no objection?

A. No, sir.

Q. He was not embarrassed at the time, so far as you know?

A. As to our merger with Sharon?

Q. Yes.

A. No, sir; I rather think he felt it was a good move, and yet Mr. Frick was not active in the matter at all. That matter was up with the Mellons and myself.

Q. I do not recall what you said in regard to the question of how long it was after the Corporation purchased those open-hearth blast furnaces that it completed them.

A. I do not know. The Carnegie Steel Company operated the open-hearth plant at Donora, I know, for five or six years, shipping the open-hearth product to its various finishing mills, where it was short of open-hearth product.

Q. How long after the purchase was it before they began to operate those open-hearth furnaces?

A. I cannot tell you that.

Q. Can you approximate it?

A. No, sir, I cannot.

Q. Was it as much as a year?

A. I do not think it was anything like a year.

Q. What would you put it at?

A. The consummation of our deal with the Steel Corporation required until some time in March, and construction work during that period was held up more or less on account of the change in the ownership of the companies, on account of making the inventories, and so forth, and it is my impression that the Carnegie Steel Company finished the open-hearth plant within, say, six months after they took over the property, which was about the 1st of March, or probably about the 15th of March.

Q. And when was the sale?

A. The sale was made on December 15th; but it required the audit of the books of both companies from their inception to the time of the sale; and then there was a re-audit made by the Steel Corporation, which consumed a great deal of time. The Steel Corporation would not accept our audit of the books of Sharon; neither would they accept the audit of the books of the Union Steel Company by the Sharon Steel Company. We audited each others books, and then the Steel Corporation made a very careful investigation with their own staff.

MR. LINDABURY: In giving the date of the sale, then, you mean the contract of sale?

THE WITNESS: The contract of sale, yes.

By MR. COLTON:

Q. When did Mr. Frick first take up the matter with you?

A. I would say something like ten days or two weeks after our deal with Sharon.

Q. What date was that?

A. I could not give you any positive dates. I would say approximately ten days or two weeks after the Sharon deal.

Q. And the date of the Sharon deal was what?

A. November 20th.

Q. There were a number of wire companies that you named this morning, the capacities of which I would like to take up with you. Do you know, at all, what the tonnage in wire was of the Kelly Nail & Iron Works? I mean, prior to November 20, 1902?

A. The Kelly Nail & Iron Works manufactured nails only. They were stockholders in the Ashland Steel Company and secured their rods from the Ashland Steel Company. I do not know just what their capacity would have been in nails, but they had a very good nail works, or nail mill, as I understood.

Q. Do you know what percentage of their nail mill production was cut nails, as distinguished from wire nails?

A. I do not recall that they made cut nails. They might have done so.

Q. Do you know what the capacity of the Kokomo Steel & Wire Company was, in wire, first?

A. I would be afraid to state what that was. I never saw the Kokomo mill.

Q. Was it large or small, in wire?

A. My understanding is that it was a very nice plant, of about 150 or, possibly, 200 tone of rods a day; and that they drew wire and made nails; and they were also manufacturers of wire fencing.

Q. What annual capacity would that give, in wire rods?

A. That would be 40,000 to 60,000 tons of rods per year.

Q. Can you tell me about what the wire capacity of the Page Woven Wire Company was?

A. I think that was about the same capacity.

Q. Did it make nails?

A. Yes, sir; some few nails, but not a great many, as I recall.

Q. Can you tell me about what was the capacity of the Dillon-Griswold Wire Company in wire rods?

A. No; but it was my impression that it was quite small.

Q. And in wire?

A. I cannot state.

Q. Did it manufacture any wire?

A. I think it did.

Q. Was it small or large?

A. I think it was a small plant.

Q. And in nails?

A. I think the company had a small plant.

Q. Do you know whether that company was taken over, in whole or in part, by the American Steel & Wire Company of New Jersey, subsequently?

A. I do not.

Q. Do you know approximately the tonnage of the Alabama Steel & Wire Company of Birmingham, in rods, at that period?

A. They built a mill that should have produced 100,000 tons of rods per year; but they had mechanical difficulties, and I do not think they ever succeeded in producing anything like the tonnage for which the mill was designed.

Q. Do you know what their tonnage was in wire, at the same time?

A. I was never through their works and I do not know; but I think they built with the idea of finishing their entire product. That was my understanding from Mr. Schuler.

Q. You do not know how large their wire nail product was?

A. No, sir; I do not.

Q. Do you know whether Wickwire Brothers manufactured wire rods at that time at all?

A. They were competitors on some lines of products, but I am not certain just what they manufactured.

Q. You spoke of several new concerns having sprung up in the period from 1899 to December 15th, 1902. Would you name those new concerns that sprang up during that period, other than those that are here? I will not go into those again.

A. I do not recall any new plants, outside of the Pittsburgh Steel Company.

Q. Were any of those companies that we have gone over new plants that began in that period?

A. They were comparatively new plants, but I think they were all started prior to the organization of the Steel Corporation. I am not clear whether the Pittsburgh Steel Company was or not, but I think it was.

Q. You mean the Pittsburgh Steel & Wire Company?

A. Yes, sir.

Q. Was its capacity large or small on December 15th, 1902?

A. They had a very modern rod, wire and nail mill and also a fence plant, and were manufacturers of barbed wire.

Q. Do you know their tonnage at that time?

A. Their first mill was built for probably 400 tons of rods per day; but they have grown very rapidly; they have since started a rod mill and, later on, a tube mill——

Q. I do not care about their later development. I was just speaking of that period.

Do you know any company formed since the organization of the United States Steel Corporation in April, 1901, and before December 15th, 1902, that had under way and partly constructed as large an ingot capacity as the Union and Sharon Company combined had?

MR. LINDABURY: Do you not want to add to that: "and that was located at Sharon and Donora"? You might let some other in.

MR. COLTON: I withdraw that question.

By MR. COLTON:

Q. Do you know of any company that was formed between April, 1901, and December 15th, 1902, that had as large an investment as the Union Company had at the time it was sold to the United States Steel Corporation?

MR. LINDABURY: That is objected to as irrelevant and immaterial.

THE WITNESS: I do not recall any. You mean as large as the Union and Sharon combined?

MR. COLTON: Yes.

THE WITNESS: I do not recall any.

By MR. COLTON:

Q. Do you know of any company that was formed during that period that had under way at that time as large

constructions of plants as the Union Company had at that time?

A. I should think the Pittsburgh Steel Company have about. They have a very large open-hearth plant. The furnaces, as I recall, are a little larger and better than ours at Donora.

Q. At that time?

A. They have been built since those at Donora.

Q. I asked about that time: at the time of the transfer of the Union Company to the United States Steel Corporation.

A. You mean between the formation of the Steel Corporation and the time we sold in 1902?

Q. Yes.

A. I do not think there were any.

MR. COLTON: That is all.

RE CROSS EXAMINATION,

By MR. LINDABURY:

Q. Do you know how many open-hearth furnaces were built during the years 1901 and 1902?

A. No, sir. It is pretty hard to be exact in any of those matters.

Q. Of course. You simply do not know?

A. No; that is a long while ago.

Q. You would not say there were not more built in the country at large than you built during that time, would you?

A. No; I would not.

Q. You do not know, do you?

A. I do not know.

Q. Now a word in regard to the manufacture that you were asked about by Mr. Colton. As to Illinois, could the Illinois Steel Corporation, with the plants and the facilities that it had in 1900 or 1901, before the formation of the Steel Corporation, have successfully developed a business in the eastern states in competition with Pittsburgh?

A. They were at a disadvantage as regards Pittsburgh;

and in periods of depression, when prices were low, they could hardly have competed in the eastern territory.

Q. It would have been practically a prohibitive disadvantage, would it not?

A. Yes, sir.

Q. Could the Illinois Steel Corporation at that same time have developed a successful foreign business, involving, of course, transportation from the territory of its mills to one or the other seaboards?

A. No, sir. They are not nearly as favorably located for export business, or for eastern business, as mills in what is known as the Pittsburgh district.

Q. I will ask the same question with regard to the Federal Company. It had no facilities other than the Illinois for entering into foreign or export business, had it?

MR. COLTON: I object on the ground that the witness is not shown to know anything about what was going on about that time.

MR. LINDABURY: As Judge Dickinson said, we will take his answer.

THE WITNESS: What is the question?

By MR. LINDABURY:

Q. You spoke of the Illinois Company and said that that could not successfully enter into an export business with the facilities it had in 1900, and I ask you whether that is true of the Federal Company as a whole?

A. I think that is true of the Federal as a whole, although the Federal was a little nearer seaboard, as I recall, than the Illinois Steel. I think the Federal had taken over the Lorain plant, as I recall.

Q. They only manufactured girder rails or street railway rails, that entered into foreign commerce?

A. Yes, sir; I believe that is true. They were not furnishing very much.

Q. In order, therefore, for the Federal to have entered into a successful foreign business, it was necessary that it should acquire finishing mills nearer the seaboard, was it not?

A. Yes, sir; and for the higher finished products like tin plates, sheets and articles that require considerable coal, there is no doubt but what the Pittsburgh district has advantages over all the others.

Q. So, also, was it necessary to acquire steel plants or finishing mills further east than Chicago or Lorain to develop a good business in the eastern states?

A. Yes, sir.

Q. By "good" I mean successful.

A. Yes, sir; in order to manufacture in the most economical way and be capable of handling the business in all parts of the country, that is undoubtedly the fact.

Q. And that is about the only way to succeed nowadays, is it not?

A. Yes, sir; it is tending that way very rapidly.

By MR. COLTON:

Q. Were you familiar, in a general way, during the period from April 1st to December 15th, 1902, with what your competitors were building in the way of blast furnaces, steel works and other things—for instance, open-hearth furnaces?

A. Yes. I was getting all the pointers I could.

Q. Could any concern have started up within the United States during that period, as large as the Union-Sharon Company combined, with their plans and financial backing, without your having heard of it?

MR. LINDABURY: I object, if that is meant as cross examination. I did not ask him if any one plant had built as largely as they, but whether there were as many open-hearth furnaces throughout the country.

MR. COLTON: But you asked him if he knew anything about it, and he said no.

MR. LINDABURY: I did not ask if there was any one plant.

By MR. COLTON:

Q. Please answer the question.

(The question was repeated by the stenographer as follows:)

“Q. Could any concern have started up within the United States during that period, as large as the Union-Sharon Company combined, with their plans and financial backing, without your having heard of it?”

A. No. I think that is true. The way you asked your first question, would that refer to Colorado Fuel? That was an old company, but they made very large improvements, I just recall now. They built new plants during that period.

Q. Of new organizations; I should have limited it to that, perhaps.

MR. LINDABURY: Why?

By MR. COLTON:

Q. Well, taking both old companies and new companies, the Colorado Fuel Company is the only one you can recall?

A. Well, Lackawanna was building a pretty large plant.

Q. But both of those companies had started up prior to the formation of the United States Steel Corporation?

A. I am a little confused as to the time of the Lackawanna's building.

Q. Do you know as to the rates on goods sold from abroad to interior points in the United States, or as to rates on goods sold from interior points in the United States to abroad, as to whether there is any modification as to freights in respect to them?

A. Do you mean as of today?

Q. As of that time.

A. I think that at that time the railroads made a lower export rate than the regular rate from Pittsburgh to seaboard plus the ocean freight, and likewise there was a lower rate of freight made on tin plate delivered at Chicago than there would have been on the regular ocean rate plus the full tariff from New York to Chicago. That is my recollection.

Q. Do you have any knowledge of the Federal Steel Company, one way or the other?

A. I have been through the plants of the Illinois Steel Company, but I have no special knowledge.

Q. Do you know anything about the Lorain plant?

A. I have never been through the Lorain plant.

Q. Do you know about the Lorain plant?

A. You mean after that period?

Q. Yes.

A. I had never been through the Lorain plant at that time. The present plant is a very large plant.

By MR. LINDABURY:

Q. Would you say that no existing steel company increased its productive capacity in 1901 and 1902 to an amount equal to the capacity of the Union at the time of the merger?

A. I do not think either of the other companies increased quite to that extent.

Q. Several of them did very greatly increase their capacity during that period, did they not?

A. Yes, sir; I think they have all been prosperous.

Q. I mean now to exclude the plants of the Steel Corporation. Jones & Laughlin increased theirs greatly, did they not, during that time?

A. Yes, sir.

Q. And the Lackawanna?

A. Yes, sir.

Q. And the Colorado Fuel & Iron?

A. Yes, sir.

Q. And the Inland Steel?

A. Yes sir; and the Youngstown Sheet & Tube have grown.

Q. I am speaking now of 1901 and 1902, those two years, you know; that was the time when the Union was built, was it not?

A. Yes, sir.

MR. LINDABURY: I think that is all, Mr. Donner.

MR. COLTON: Nothing further.

A. R. KENNEDY,

called as a witness by and on behalf of the United States,
having been first duly sworn, testified as follows:

By MR. CORNEAU:

Q. What is your business?

A. Traffic manager of the Pittsburg Steel Company.

Q. How long have you held that position?

A. Close on to five years.

Q. What was your position before that time?

A. Assistant in the same department.

Q. And before then, what?

A. I worked for the Pennsylvania Railroad for five and one-half years, and for the Lake Shore Railroad for a year and a half.

Q. In what departments?

A. The freight department.

Q. Will you tell us, in a general way, what your duties are as traffic manager of the Pittsburgh Steel Company?

A. In a general way, looking after all matters of transportation, both water and rail, the handling of all freight rates, and looking into all competitive conditions from the freight rate standpoint, and keeping our sales department posted.

Q. That necessarily involves, then, your keeping yourself familiar with rates on the commodities in which your company is interested?

A. Yes, sir.

Q. Before you were traffic manager, and while you were assistant traffic manager, what were your duties; were they of the same general nature?

A. Yes, sir.

Q. While you were connected with the railroads, what, if anything, did you have to do with rate matters?

A. I was rate clerk for a year and a half, with the Lake Shore Railroad, and I was in the general freight department handling tariff claims for three and one-half years.

Q. By the way, when you were connected with the Pennsylvania Railroad and the Lake Shore Railroad, was it in this part of the country?

A. Right in Pittsburgh.

Q. And you dealt then, I take it, with rates in this vicinity?

A. Yes, sir. In and out of this vicinity.

Q. Have you recently made a special investigation concerning the rates on ore generally from lower lake ports to furnace points and elsewhere?

A. Yes, sir.

Q. You have examined the tariffs of the different railroads to ascertain those rates?

A. Yes, sir.

Q. Have you those tariffs with you?

A. I have.

Q. Can you tell me the rate from Lake Erie ports on ore to the Youngstown, Ohio, district?

A. Yes, sir.

Q. What is it, please?

A. On direct ore, 56 cents a ton; on indirect ore, 64 cents.

Q. Will you just explain the difference between the rate on direct ore, as you call it, and the rate on indirect ore? Is there some other name for it besides indirect ore; is it called dock ore?

A. Yes, it is called dock ore. What I call direct ore is loaded from the ship direct to the car. What I call indirect or dock ore is delivered on the dock from the ship, and later re-loaded to the car.

Q. I did not catch, at the time of your answer a moment ago, whether you told us the difference between the rate on direct ore and the rate on dock ore.

A. I said the direct rate was 56 cents a ton, and the dock ore rate 64 cents a ton.

Q. That would make a difference of eight cents?

A. Yes, sir.

Q. In order that we may cover it with one question, if possible, is it true generally that the rates from the lower lake ports to any district or city show a difference of eight cents; that is, that the rate on direct ore is eight cents lower than the rate on indirect or dock ore?

A. That is true.

Q. So if I ask you for the direct rate, it can be understood that the dock rate or indirect rate will be eight cents more?

A. Yes, sir.

Q. Have you ascertained the average distance from lake ports to the Youngstown district?

A. Yes, I have them here. 66.9 miles.

Q. Will you tell me what that figure of 66.9 miles represents; is it the short line or the long line or the average, or what?

A. The short line.

MR. SEVERANCE: It is not the average at all, then? The question was as to the average.

THE WITNESS: I gave the average.

MR. CORNEAU: No, I asked him whether it was the short line or the long line or average.

MR. SEVERANCE: But the question you put before was the average distance to the Youngstown district, and he answered 66.9. Now he says it is the short line distance, as I understand.

(Upon request, the question and answer thereto were repeated by the stenographer as follows:)

“Q. Have you ascertained the average distance from lake ports to the Youngstown district?

“A. Yes, I have them here. 66.9 miles.”

THE WITNESS: That is the average distance from Lake Erie ports to the Youngstown district, Shenango and Mahoning Valley district furnace points.

MR. SEVERANCE: It is not the short line?

THE WITNESS: It is the short line. The average is made up on short line distances.

By MR. CORNEAU:

Q. What you mean, I think, is that it is the average short line distance, is that correct?

A. I can give you the individual mileages, if you wish them.

MR. SEVERANCE: Never mind; I will not interrupt while you are examining.

By MR. CORNEAU:

Q. Can you give me the rate on direct ore from Lake Erie ports to Aliquippa, Pennsylvania?

A. 78 cents a gross ton.

Q. And the distance, ascertained in the same way?

A. 105 miles.

Q. Will you give me the rate and distance ascertained in the same way, to the Pittsburg district?

A. The average to the Pittsburgh district, 135 miles.

Q. And the rate?

A. 96 cents a gross ton.

Q. Will you give me the rate to Columbus, Ohio, and the average distance ascertained in the same way?

A. 50 cents a gross ton; 138 miles.

Q. Now, the rate and distance to the Wheeling district.

A. The rate is 60 cents per gross ton, and the average distance is 160 miles.

Q. The rate and distance to Jackson, Ohio.

A. 62½ cents a gross ton; 217 miles.

Q. The rate and distance to Josephine, Pennsylvania?

A. 85 cents a gross ton; 228 miles.

Q. The rate and distance to Ironton, Ohio?

A. 90 cents a gross ton; 265 miles.

Q. The rate and distance to Ashland, Kentucky?

A. 90 cents a gross ton; 269 miles.

Q. The rate and distance to Cincinnati, Ohio?

A. 90 cents a gross ton; 289 miles.

Q. In some cases I have asked you in reference to the rates to a district, for instance, the Youngstown district, the Pittsburg district and the Wheeling district. Will you take those up, Youngstown first and the others in order, and tell us generally what territory is included in those districts, respectively.

A. Commencing with the Youngstown district?

Q. Yes. I do not care for an exact definition, but generally, so we will have an idea of it.

A. The eastern boundary of the Mahoning-Shenango Valley district, so-called, is New Castle. The Western point of that district is Warren, Ohio. The northern point of that

district is Shenango, Pennsylvania. That practically covers it. This is taking in all the points on railroads in that district, taking in about twelve points.

Q. Will you name the principal points in that district—the furnace points, I mean?

A. Shenango, Pennsylvania; Sharpsville, Pennsylvania; Sharon, Pennsylvania; South Sharon, Pennsylvania; Weekland, Pennsylvania; West Middlesex, Pennsylvania; New Castle, Pennsylvania; Warren, Ohio; Niles, Ohio; Girard, Ohio; Briarville, Ohio; Youngstown, Ohio; Haselton, Ohio; Struthers, Ohio; and Lowellville, Ohio.

Q. All those points, then, take the same rates, as I understand it?

A. Take a 56 cent rate on direct ore; yes, sir.

Q. Will you describe the Pittsburgh district in the same way?

A. The so-called Pittsburgh district includes the following furnace points; Neville, Pa.; Pittsburgh, Pa.; Rankin, Pa.; Braddock, Pa.; Duquesne, Pa.; McKeesport, Pa.; Clairton, Pa.; Donora, Pa.; Monessen, Pa.; Kittaning, Pa.

Q. Now the Wheeling district.

A. Steubenville, Ohio; Mingo Junction, Ohio; Martins Ferry, Ohio; Bellaire, Ohio; Benwood, West Virginia and Wheeling, West Virginia.

Q. State whether or not the points with respect to which you have given the rates are the principal ore-consuming points obtaining their supply of ore from the lower lake ports.

A. Those three districts?

Q. Those three districts, and the other points named, namely Aliquippa, Pennsylvania; Columbus, Ohio; Jackson, Ohio; Josephine, Pennsylvania; Ironton, Ohio; Ashland, Kentucky, and Cincinnati, Ohio.

A. Those are the principal points in which the rail haul is involved; yes, sir.

Q. Do you know of any point within 300 miles of a lower lake port which takes a rail rate on ore as high as the Pittsburgh rate of 96 cents?

A. I do not know of any.

Q. I mean any furnace point.

A. I do not know of any; no, sir.

Q. Do you know whether or not any part of the 96 cent rate goes to the dock company as dock charge?

A. Two cents a ton.

Q. And in the case of dock ores, how much goes to the dock company?

A. Eight cents a ton.

Q. Do you know whether or not there is any additional dock charge on a shipment of ore, either coming to the dock or leaving the dock?

A. The only additional charge, I understand, that there is is the charge for unloading from the ship, to the rail of the ship.

Q. Do you know how much that is?

A. It is ten cents a ton now, since the first of May.

Q. State whether or not that is in addition to the 96 cents.

A. That is in addition to the 96 cents.

Q. And would therefore either be added to the steamboat rate or paid separately to the dock company, as the case might be?

A. Exactly.

Q. Can you give me the rates on ore from Michigan points, we will say Escanaba, Michigan and Ashland, Wisconsin?

A. You mean to those points?

Q. To those points. I will ask you, first, whether those points are lake ports at which ore originates to a considerable extent?

A. Yes, sir.

Q. Now can you give me the rates on ore from the nearby Michigan Ranges to those points?

A. From Iron River and Crystal Falls, Michigan, on the Northwestern Railroad, to Escanaba, a distance of 70 miles, the rate is 40 cents.

Q. That is Ecanaba?

A. Yes, sir.

Q. Have you the rates from some points to Ashland?

A. The rate from Bessemer, Michigan, and Iron Wood, Michigan, on the Soo Line to Ashland is 40 cents; the mileage is 58 miles.

Q. Is there a mining district near Baraboo, Wisconsin?

A. Yes, sir.

Q. Can you give me the distance and rate on that to a consuming point?

A. The rate on iron ore from Baraboo, Wisconsin, to Chicago, 190 miles, is 70 cents a gross ton.

Q. What is the rate from the Minnesota Ranges to Lake ports?

A. 60 cents a gross ton.

Q. How long has that been in effect?

A. Since November 30, 1911.

Q. What railroads?

A. The Duluth, Missabe & Northern, and the Duluth & Iron Range.

MR. SEVERANCE: Is that all?

THE WITNESS: And the Great Northern.

By MR. CORNEAU:

Q. Can you tell me what the rates on the Duluth, Missabe & Northern and Iron Range were prior to this change?

A. 80 cents a gross ton.

Q. Were the rates from all Duluth & Iron Range Points the same?

A. No, sir.

Q. What points took different rates, and what were they?

A. They were all the same except Tower Junction, which took a 90 cent rate, and Ely, which took a dollar rate. They have all been reduced to the same rate of 60 cents a ton.

Q. Can you tell me the average distance from the ranges to Lake ports over the Duluth & Iron Range, and over the Duluth, Missabe & Northern, or from some of the points, which represent the hauls either way?

A. From the points located either on the D. M. & N., such as Virginia, Mountain Iron, Hibbing, Coleraine, Eveleth, Sparta, Biwabik, Marble, Taconite, Chisholm and Sharon, the average distance is 78 miles; the rate is 60 cents a gross ton.

Q. Those are points on which railroad?

A. The D. M. & N. Railroad.

Q. Can you give me the same for the other line?

A. I have not the other line worked up.

Q. Have you computed the capacity of furnaces—I mean the ore-consuming capacity,—of the furnaces in the Pittsburgh District when under full operation?

A. Yes, sir.

Q. Please give us those figures.

A. 15,000,000 tons a year under full capacity.

Q. Does that include Aliquippa?

A. Yes, sir; I believe that does.

Q. Have you got the capacity of Aliquippa separately?

A. 1,200,000 gross tons per year under full operation.

Q. By the way, I think I forgot to ask you in what connection you made your recent investigation concerning these ore rates. What was the reason and purpose of it?

A. The real purpose was in connection with our ore case, which we have filed before the Interstate Commerce Commission.

Q. What do you mean by “our ore case”?

A. I mean the Pittsburgh Steel Company against—

Q. And who were the parties to the complaint?

A. Against the rate to Pittsburgh of 96 cents a gross ton being unreasonable, based on the fact that other districts are permitted to get ore at about one half the rate for greater distances. We also complain that the Steel Corporation of course have their own railroad.

MR. SEVERANCE: I do not suppose this is important. You asked him why he made the investigation and he said he made it for the purpose of his ore case. The pleadings in the case will show what the charges are. However, I do not object if you wish to go into it.

MR. CORNEAU: That is sufficient.

By MR. CORNEAU:

Q. Have you computed the ore-consuming capacity of the Youngstown District, when all the furnaces are in full operation?

A. I have not, but my knowledge is that it is over 9,000,000 tons.

Q. Have you computed the capacity of the Wheeling District?

A. Yes, sir.

Q. By the way, before we go to that, when you say the Youngstown District has a capacity of over 9,000,000 tons, how much over would you say?

A. 600,000 tons over that, so that it would approximately be 9,600,000 tons.

Q. Now, take the Wheeling District.

A. 3,200,000 tons, when under full operation.

Q. The Columbus District or Columbus, Ohio—I do not know whether that is a district or not?

A. It is not a district, no. About 700,000 gross tons when under full operation.

Q. Take Ironton, Ohio.

A. About 500,000 tons when under full operation.

Q. Josephine, Pennsylvania?

A. About 600,000 gross tons under full operation.

Q. Is that as to the present time?

A. Of the present time; yes, sir.

Q. Ashland, Kentucky?

A. About 100,000 gross tons when under full operation.

Q. Jackson, Ohio?

A. 60,000 gross tons under full operation.

Q. Cincinnati, Ohio?

A. I do not have the Cincinnati consumption.

Q. Can you approximate it?

A. No, sir.

Q. Do you know whether it is large or small?

A. It is small.

Q. Would you say as great as 50,000 tons?

A. I would not like to say. I do not know whether that district is in operation or has been for a long time.

(Thereupon an adjournment was taken until tomorrow, Wednesday, October 9, 1912, at 10.30 o'clock a. m.)

TWENTY-EIGHTH DAY.

ROOM 309, FEDERAL BUILDING,
PITTSBURGH, PENNSYLVANIA,

October 9, 1912.

The hearing was resumed at 10:30 o'clock a. m., before Special Examiner John A. Brown.

Present on behalf of the United States, Mr. Dickinson and Mr. Corneau.

Present on behalf of the defendants, Mr. Lindabury, Mr. Severance, Mr. Bolling, and Mr. Reed.

A. R. KENNEDY,

the witness under examination when the adjournment was taken, resumed the stand.

DIRECT EXAMINATION (Continued),

By MR. CORNEAU:

Q. Mr. Kennedy, have you computed the capacity of the furnaces of the Steel Corporation in the Pittsburgh district?

A. Yes, sir.

Q. What is it?

A. About 11,000,000 tons, under full operation, annually.

Q. Do you know about what the total capacity of the furnaces in Youngstown district is?

MR. SEVERANCE: You mean of the Corporation?

MR. CORNEAU: No, the total, I said.

THE WITNESS: I believe I gave that yesterday, as about 9,600,000 gross tons annually, under full operation.

By MR. CORNEAU:

Q. And have you computed the capacity of the Corporation's furnaces in that district?

A. I have not, but I understand it is less than 50 per cent.

Q. Can you state about how much less—that is whether it is between 45 and 50 or between 40 and 45—as nearly as you can approximate it?

A. I think it is closer to 40.

Q. Have you computed the Corporation's percentage of blast furnace capacity in the Wheeling district?

A. I have not that separated, no.

Q. Have you the data from which you can ascertain the figures?

A. I believe so; yes, sir. (After calculation). Approximately 2,000,000 tons annually.

Q. All these figures you have given here are annual capacities, are they not?

A. Annual capacities, yes, sir.

Q. Have you computed the Corporation's furnace capacity in the Columbus district?

A. Yes, sir.

Q. What is it, please?

A. 360,000 gross tons.

Q. Does the 96 cent rate from lake ports to Pittsburgh apply by way of the Bessemer & Lake Erie Railroad?

A. Yes, sir.

Q. Does that road make delivery to the furnaces over its own rails?

A. No, sir.

Q. Over what road is delivery made to the blast furnaces?

A. The Union Railroad; that is, on the ore the Bessemer & Lake Erie handles.

Q. Can you give me the capacity of the furnaces served by the Bessemer & Lake Erie and Union Railroads?

A. I cannot give you that exactly, but it is approximately 7,000,000 tons annually.

Q. Do you know what division of the total rate of 96 cents is given to the Union Railroad by the Bessemer & Lake Erie?

A. Yes, sir.

Q. What is it, please?

A. 26 cents a ton.

Q. Do you know whether or not the other railroads publish rates from lake ports to Pittsburgh by way of their own lines and the Union Railroad to the same furnaces as those served by the Union Railroad on Bessemer & Lake Erie shipments?

A. They do.

Q. Do you know what proportion is given to the Union Railroad by these other railroads for like service; that is, for delivery of ore at furnaces located on the Union Railroad?

A. Ten cents a ton; that is, provided they happen to haul any of such ore.

Q. I understand. How does the tonnage into and out of the Pittsburgh district generally compare with the tonnage into and out of the Youngstown, Wheeling, Columbus, Ohio, Ashland, Kentucky, and other districts that have been named? I mean the general freight tonnage coming to or going from the different districts.

A. The density of traffic in and out of the Pittsburgh district is much greater than any other district to which ore moves; considerably greater.

Q. Do you know, in a general way, whether or not the traffic over the Bessemer & Lake Erie compares favorably or unfavorably in density with the traffic over the roads to and from the other districts than the Pittsburgh district?

A. In my judgment I think the Bessemer & Lake Erie traffic is very dense, and is considerably higher in volume than the other districts outside of the Pittsburgh district.

Q. What kind of cars are used for hauling ore?

A. Gondola and hopper cars.

Q. Do you know what sort of freight moves to lake ports for which the gondola or hopper cars would be available?

A. Coal traffic.

Q. Anything else?

A. Some coke.

Q. Anything else?

A. General iron and steel products can be loaded in open cars, especially gondola cars.

Q. How does the general traffic in coal and coke and these other commodities that move toward the lake, and which can be loaded in gondola or hopper cars from the Pittsburgh district, compare with the traffic in similar commodities to the Lakes from the other districts?

A. It is about two or three times as great as from other districts.

Q. With particular reference to coal, do you know whether or not coal originates in these other districts for shipment to the Lakes?

A. It does not directly in the other districts, as it does in the Pittsburgh district; and it involves a considerable haul of empty cars to the coal mines from other districts.

Q. While, as I judge from your answer as to the Pittsburgh district just now, the coal originates substantially at the point where the ore is delivered?

A. Practically; yes, sir. Within a radius of a very few miles.

Q. So that in the matter of return hauls for the cars which have come from the Lakes, how does the Pittsburgh district compare with the other districts?

A. It is very much in favor of the Pittsburgh district.

Q. Are you at all familiar with the lines of railroad serving the Pittsburgh district and these other districts?

A. In a general way; yes, sir.

Q. Have you ever been over them?

A. Yes, sir.

Q. Did you have opportunities, in going over them, to observe something of the operating conditions, in a general way?

A. I did; they were all daylight trips.

MR. SEVERANCE: Of which road are you speaking?

By MR. CORNEAU:

Q. Just name the roads that you have in mind, Mr. Kennedy.

A. Commencing with the Bessemer & Lake Erie, the P. Y. & A. Division of the Pennsylvania Lines—

MR. SEVERANCE: What division is that?

THE WITNESS: The Pittsburgh, Youngstown & Ashtabula. The Cleveland & Pittsburgh Division of the Pennsylvania Lines.

The Erie Railroad, in connection with the P. & L. E., into the Pittsburgh district, as well as in the Youngstown district.

The Lake Shore into Youngstown, and the Lake Shore and the P. & L. E. into Pittsburgh.

The B. & O. into Pittsburgh and Youngstown.

The Pennsylvania from Cleveland and Ashtabula to the Wheeling district.

The Wheeling & Lake Erie from the Lorain district and Cleveland to the Wheeling district.

The Hocking Valley into the Ironton, Ashland and Jackson districts.

The Pennsylvania into Columbus, and the Big Four into Columbus.

I might add that the Norfolk & Western is a part of the southern Ohio-Kentucky routes, over which I traveled, and is a part of the ore-carrying routes to that district from lake ports.

I think that covers it pretty well.

Q. Have you also been at the Lake ports themselves, and, if so, have you observed the operations there?

A. I have been at all the ports from Toledo to Buffalo.

Q. Is there any difference in the character of service at any of these points? I refer now to the switching service, loading, and so forth. Is there any difference in that service whether the freight is going to Pittsburgh or to some other district?

A. Absolutely the same.

Q. How is it with respect to terminal service?

A. The terminal service at ports is, of course, all the same. That is, in relation to the switching, that you spoke of before, it makes no difference whether ore is going to Wheeling or Pittsburgh or southern Ohio or some other district, it is all the same service, so far as loading and switching in the trains, and weighing, and so forth are concerned.

Q. As to the service at the furnaces in the Pittsburgh District, do you know whether or not that is performed by the trunk line?

A. In some instances; in a great many instances.

MR. SEVERANCE: Do you mean the delivery of cars, the spotting of cars?

MR. CORNEAU: I mean the spotting of cars, yes.

THE WITNESS: The practice in the Pittsburgh District, in connection with blast furnaces, is that the trunk lines place the cars at interchange tracks with furnace plant lines. Practically all of them have switching lines from which point the terminal or plant lines place the ore where needed by the furnace people.

By MR. CORNEAU:

Q. What is the practice in the other districts?

A. In the other districts the trunk lines hauling the ore perform the service for the furnaces, and place the cars where needed.

Q. Have you made some investigation with reference to the cost of hauling ore over the Bessemer & Lake Erie Railroad?

A. I have.

Q. After all of your investigations, Mr. Kennedy, are you able to state any reason justifying a higher rate to Pittsburgh over the Bessemer & Lake Erie and the other lines serving that territory from Lake ports than is made to other furnace points further in distance from the Lake ports?

A. I cannot conceive the reason, no sir.

Q. You say you cannot conceive the reason?

A. (Continuing) For a higher rate to the Pittsburgh district than to other districts, where the distance is equal or greater.

Q. Can you conceive any reason why it should be to the interest of the Steel Corporation to maintain a high rate over the Bessemer & Lake Erie to Pittsburgh?

MR. SEVERANCE: Objected to as incompetent and purely speculative. The witness has said he cannot conceive of any

reason why the rate should be higher to Pittsburgh than to these other points, and counsel should not cross examine his own witness or endeavor to induce him to contradict himself.

By MR. CORNEAU:

Q. I will ask you just what you meant by the word "reason" when you used it a moment ago, when you stated that you could not conceive any reason?

A. When I made that answer I expected to give an explanation in connection with the Bessemer & Lake Erie route.

Q. Just give that explanation.

A. It is to the advantage of the Steel Trust, as I see it, to maintain a high rate——

MR. SEVERANCE: I object to this as purely speculative. The witness has not shown himself qualified to testify as an expert, and it is not a subject for expert testimony. It is for the Court to determine from the facts, and not for this witness to speculate about it.

By MR. CORNEAU:

Q. Now, you may go ahead.

A. The reason that the income derived by the Bessemer & Lake Erie on all ore transported for the Steel Corporation within the Pittsburgh District, which that line serves in connection with the Union Railroad, is to give the Steel Corporation the benefit of that much additional freight that everybody else has to pay in the Pittsburgh District in the producing of pig iron.

Q. Do you know whether or not ore for other concerns than the United States Steel Corporation is shipped over the Bessemer & Lake Erie Route or moves over it?

A. I understand it is not. I understand that all they handle is their own ore, consumed by their own furnaces.

MR. CORNEAU: I will ask the stenographer to read the answer before the last one.

(The stenographer read as follows:)

"A. The reason that the income derived by the Bessemer & Lake Erie on all ore transported for the Steel Corporation

within the Pittsburgh District, which that line serves in connection with the Union Railroad, is to give the Steel Corporation the benefit of that much additional freight that everybody else has to pay in the Pittsburgh District in the producing of pig iron."

THE WITNESS: That is not, perhaps, very clear. The difference between the cost of the service of the Bessemer & Lake Erie Road and the actual published tariff rate is the benefit the Steel Corporation derives over other producers in the Pittsburgh District.

By MR. CORNEAU:

Q. Explain a little more fully just why that is?

A. The published rate is 96 cents. All above the cost of handling that ore, which I understand to be $28\frac{1}{4}$ cents a ton, including the loaded and empty movement, 68 cents a ton, is the benefit they derive on one ton of ore between Conneaut Harbor, Ohio, and their furnaces served by the Union Railroad in the Pittsburgh District on ore carried by the Bessemer & Lake Erie, requiring two tons of ore to make one ton of pig iron.

Q. You say that is the benefit they derive. You mean as against their competitors?

A. Exactly.

Q. That is what I am trying to get into the record. What position are the competitors in with reference to rates?

MR. SEVERANCE: Competitors of whom?

MR. CORNEAU: Of the Steel Corporation.

THE WITNESS: The competitors of the Steel Corporation in the Pittsburgh District not located on the Union Railroad are compelled to pay the tariff rate of 96 cents a ton.

By MR. CORNEAU:

Q. To whom?

A. To the trunk lines.

Q. Mr. Kennedy, have you made some similar investigations with reference to the Duluth, Missabe & Northern and the Duluth & Iron Range Railroads?

A. You mean as to the cost?

Q. As to the rates and operating conditions, and the like.

A. I have in detail as to the rates, and in a general way as to the operation.

Q. By the way, I asked you last night if you could give me the average distance over the Duluth & Iron Range to Lake ports. Have you computed that since then?

A. Yes, sir

Q. What is it?

A. I do not have the average. I have the details from each mine to Two Harbors, Minnesota.

MR. SEVERANCE: You have what?

A. I have the mileage from each point to Two Harbors, Minnesota. I will give those. From Virginia to Two Harbors, 69 miles; from Eveleth, 72 miles; from Sparta, 68 miles; from Pettit, 66 miles; from McKinley, 63 miles; from Biwabik, 59 miles; from Aurora, 52 miles; from Colby, 50 miles; from Missabe, 50 miles; from Tower Junction, 69 miles; from Ely, 89 miles; the rate is 60 cents per gross ton.

Q. How would you say the ore tonnage over the D. M. & N. and the D. & I. R. compares with the tonnage over the Michigan railroads to Michigan ports—favorably or unfavorably?

MR. SEVERANCE: Objected to as not being a question for expert testimony. The witness has not shown himself qualified to answer it, or that he knows anything about the subject.

By MR. CORNEAU:

Q. Have you made some investigation, Mr. Kennedy, with reference to the amount of tonnage moving to these different ports?

A. I have.

Q. Do you know what roads serve the different ports?

A. I do.

Q. Is that information sufficient to enable you to say, generally speaking, whether or not the tonnage over the D. & I. R. and D. M. & N. is heavier or lighter than the tonnage moving over any road to the Michigan ports.

A. Yes.

Q. Will you state what the condition is with respect to that; that is, whether the tonnage over the D. M. & N. and the D. & I. R. is heavier or lighter than the tonnage over the Michigan roads to the Michigan ports?

MR. SEVERANCE: I object to that, on the ground that the witness has not qualified himself to answer except by the mere statement that he has made an investigation.

MR. CORNEAU: You may cross examine him with reference to what he has done, if you wish.

By MR. SEVERANCE:

Q. Have you ever been up to those ports?

A. Yes.

Q. You have been over the roads?

A. Yes, sir.

Q. How many times?

A. At least twice.

Q. When?

A. In the past two years.

Q. You have been over each one of these roads?

A. Yes, sir.

Q. How long did you spend on the roads each time?

A. A day at a time.

MR. CORNEAU: Are you cross examining with reference to his knowledge of the tonnage?

MR. SEVERANCE: Yes; that is what I am trying to get at.

MR. CORNEAU: I thought perhaps you wanted to find out about the ties and roadbed, and so forth.

By MR. SEVERANCE:

Q. So that you have spent a matter of two days on each one of the roads?

A. No, sir; one day on each road.

Q. One day on each road altogether?

A. Yes.

Q. And from that you propose to testify?

A. One day each time I was up there.

Q. Two days, for the two times?

A. Yes.

Q. Two days, two times, two years?

A. Right.

MR. SEVERANCE: I object. The witness has not shown himself qualified to testify.

By MR. CORNEAU:

Q. What roads serve Two Harbors, Michigan?

A. The D. & I. R.

MR. SEVERANCE: There is no such place as Two Harbors, Michigan.

By MR. CORNEAU:

Q. I mean Two Harbors, Minnesota.

A. The D. & I. R. only.

Q. What is the tonnage of ore that moves through that port?

A. For the year 1909 it was 9,116,150 tons.

For the year 1910, it was 8,271,165 tons.

Those are the last figures that I have on the tonnage through Two Harbors.

Q. What is the tonnage through the port of Escanaba, Michigan?

A. For 1909, 5,632,421 tons.

For 1910, 4,959,869 tons.

Q. What is the tonnage through Marquette, Michigan?

A. For 1909, 2,877,191 tons.

For 1910, 3,248,929 tons.

Q. By the way, I forgot to ask you how many roads reach Escanaba, Michigan, if you know, from the ranges?

A. Just two. Just the one range line, the Chicago & North Western, and a small line called, I think, the Lake Superior & Ishpeming.

Q. How many roads reach Marquette, if you know, from the ranges?

A. The D. S. S. & A. and a small line the name of which I cannot remember—Munising something or other.

Q. The Munising Railway?

A. I believe so; but the D. S. S. & A. is the principal line.

Q. What has been the tonnage in the same ore through Ashland, Wisconsin?

A. Through Ashland, Wisconsin, in 1909, 3,736,744 tons. In 1910, 4,093,822 tons.

Q. How many roads reach Ashland?

A. From the iron ore district?

Q. Yes.

A. The Chicago & North Western, the Soo Line; and that is all, I believe.

Q. Now, in regard to Duluth.

A. You want the figures for Duluth?

Q. Yes.

A. For Duluth, in 1909, 13,296,326 tons.

For 1910, 13,609,155 tons.

Q. What roads serve Duluth?

A. From the iron ore district?

Q. Yes.

A. The Duluth, Missabe & Northern principally; and the Duluth & Iron Range incidentally.

Q. Any others?

A. Not for ore.

Q. The Great Northern does not serve Duluth for ores?

A. No, sir.

MR. CORNEAU: Do you think that data enables him to approximate it, Mr. Severance?

MR. SEVERANCE: I do not think he knows anything about it.

By MR. CORNEAU:

Q. Where did you get those figures that you have read, Mr. Kennedy?

A. These figures here are furnished by the "Iron Age," and I understand conform with those prepared by the Government.

Q. Have you ever seen the Government's publication on the subject?

A. I have not.

Q. Have you before you the Government publication?

A. I do not have the Government report showing that detail.

Q. What is that publication you have in your hand?

A. This shows the different kinds of ore that move through certain points. It does not say how it did move. It gives the different kinds of ore and where it originated; on what range. I never studied that report very closely, and I do not know what it is, clearly.

Q. Mr. Severance wants to know about Superior. Have you the figures showing the movement of ore through Superior?

A. I have. For 1909, 6,505,527 tons. For 1910, 8,437,261 tons.

Q. Where does that ore come from?

A. From the Minnesota Range mines.

Q. Over what road or roads?

A. The Great Northern.

Q. How is Superior located, with reference to Duluth?

A. They are about five miles apart, on the bay.

Q. The tonnage of thirteen million odd that you gave a while ago for Duluth is separate and apart from the other tonnage you gave for Superior, is it, and is shown separately in the statistics?

A. I understand so; yes, sir.

Q. The tonnage at Superior would have nothing to do with the comparison about which I was asking you with reference to the tonnage over the D., M. & N. and the D. & I. R., as to whether it was heavier than the tonnage over the Michigan roads, would it?

A. No, sir.

Q. What is the fact as to whether the tonnage over the D., M. & N. and the D. & I. R. compares favorably or unfavorably with the tonnage over the Michigan roads in ore to Michigan ports?

MR. SEVERANCE: That is objected to as not a question for expert testimony, and as incompetent and immaterial. The witness has not shown himself qualified to answer.

THE WITNESS: From the observance of these figures, the tonnage through Duluth and Two Harbors, Minnesota, would be more than three to one against the Michigan ports.

By MR. CORNEAU:

Q. That is to say, the tonnage over the Duluth, Missabe & Northern and the Duluth & Iron Range would be heavier than the tonnage over these other roads?

A. About three times as heavy; yes, sir.

Q. What are the operating conditions on the D., M. & N. and the D. & I. R., with reference to grades being with or against the loaded freight?

A. They are in favor of the loaded movement.

MR. SEVERANCE: Objected to on the ground that the witness has not shown himself qualified to testify. Merely riding over the road twice would give him no information.

MR. CORNEAU: It would not?

Q. Did you have any difficulty in observing what the grades were when you went over the D., M. & N. and the D. & I. R.?

A. No, sir.

Q. It was pretty obvious, was it?

A. Yes, sir.

Q. Does the character of the service at the docks of Duluth and Two Harbors differ from the character of the service at the Michigan docks?

A. Not materially. There are a little better improvements at the heavy ports.

Q. But they have the same service to perform in the way of sorting, loading, switching, and things of that kind?

A. Practically so.

Q. Is or is not that same thing true with reference to the service at the mines in Michigan as compared with the service at the mines in Minnesota?

MR. SEVERANCE: I object to that on the ground that the witness has not shown himself qualified to give any testimony in regard to it.

THE WITNESS: In a general way, yes. There is some little difference, of course.

By MR. CORNEAU:

Q. As a practical traffic man, do you know of any condition or consideration that would warrant higher rates over

the D., M. & N. and the D. & I. R. on ore from the ranges served by them to Duluth and Two Harbors, than are charged over the Michigan roads, say from the ranges you named yesterday to Escanaba and Ashland?

A. I cannot conceive any reason for it; no sir.

Q. Have you examined, Mr. Kennedy, the tariffs showing the rates from Cleveland and Lorain to the Youngstown district?

A. Yes, sir.

Q. Has the Corporation a railroad at Lorain—I mean the Corporation or any of its subsidiaries?

A. Yes, sir.

Q. What is it?

A. The Lake Terminal Railroad.

Q. Does the Lake Terminal Railroad participate in the rates on ore from Lorain, coming by way of the Corporation docks to Youngstown?

A. Yes, sir.

Q. What is its division?

A. Ten cents a ton.

Q. Has the Corporation docks and railroad at Cleveland?

A. Yes, sir.

Q. What is its railroad?

A. The Newburg & South Shore.

Q. Does that road participate in the rates on ore coming by way of the Corporation docks to Youngstown?

A. Yes, sir.

Q. What is its division?

A. Ten cents a ton.

Q. Do you know whether or not the Corporation railroads, the Bessemer & Lake Erie and the E., J. & E. and any others, are members of the different railroad traffic associations and classification committees?

A. The Bessemer & Lake Erie is a member of the Pittsburgh Freight Committee and also a member of the Central Freight Association. The E., J. & E. is a member——

Q. Pardon me; how about the Trunk Line Association?

A. I do not know whether they are a direct member, but they have representation, direct or indirect. The E., J. & E.

is a member of the Central Freight Association, and, I understand, is also a member, represented directly or indirectly, in the Western Trunk Line Association.

As to the classifications, the Bessemer & Lake Erie is either a member or is represented, directly or indirectly, at Official Classification meetings, and participates in that issue in connection with practically all rates.

Q. What are the territorial jurisdictions of these different traffic associations?

A. The Central Freight Association, as I understand, commences at Buffalo, as the eastern end of the territory; Pittsburgh is also in C. F. A. territory, and is considered the western terminus of the Trunk Line. That territory follows south, including Cincinnati and along the Ohio River, and west, including the points east of the Mississippi River, and north as far as the Lakes, including Michigan. That is, in brief, the outline of it.

Q. And the Trunk Line territory is east of Buffalo and Pittsburgh?

A. The Trunk Line territory comprises the New England States, New York State, eastern Pennsylvania and all points east of Pittsburgh, and south as far as what are known as the Virginia Cities, Richmond, Norfolk, and so forth.

Q. Who are the members of these associations? I do not mean to name each one, but I mean are they railroads or other concerns, or what?

A. They are railroads entirely.

Q. What are the functions of these associations?

MR. SEVERANCE: Let me ask whether the witness has ever attended any of these meetings and knows anything about them.

MR. CORNEAU: Very well.

By MR. SEVERANCE:

Q. Have you ever attended any of these meetings?

A. Yes, sir.

Q. You have attended the meetings?

A. Yes.

Q. You are a member of the association, are you?

A. No, sir; I slipped in.

By MR. CORNEAU:

Q. Will you just state in a general way whether or not the purpose and functions of these traffic associations are matters of very general knowledge among traffic men?

A. They are, yes, sir; very general knowledge among railroads only.

Q. I say the functions, purposes, and what they are for?

A. Yes, sir; that is generally known.

Q. Go ahead and state in a general way what their functions are.

A. Their functions would be to give consideration to all the adjustments of rates and rules and regulations in connection with rates, loading, minimum weights, and a dozen other things of slight importance.

Q. And the classification committees?

A. The classification committees' duties are to consider subjects placed before those committees, either by industrials or by railroads themselves, for increases or decreases in the classification basis, for changes in minimum weights and rules. I think that covers it pretty generally.

MR. CORNEAU: That is all.

CROSS EXAMINATION.

By MR. SEVERANCE:

Q. Do you not know, as a matter of fact, that the Central Freight Association has nothing whatever to do with fixing rates or classifications upon ore, limestone or coke?

A. I do know that, yes.

Q. You know they have nothing to do with it?

A. Yes.

Q. Then the fact that the Bessemer & Lake Erie is a member of the Central Freight Association would not give that railroad any voice as such member in making rates on ore, coke and limestone, if the Association did not touch those three subjects, would it?

A. No, sir.

Q. Do you not know, as a matter of fact, that the Bessemer & Lake Erie is not a member of the Trunk Line Association, and that it has no representation on that Association, either directly or indirectly?

A. I do not know that, no sir.

Q. Do you know anything about it; do you undertake to swear that they are members?

A. I said I understood——

Q. You are under oath here.

A. Exactly.

Q. You are not supposed to speculate, but simply tell what you know.

MR. CORNEAU: Suppose you stop arguing with the witness.

MR. SEVERANCE: I am not arguing with the witness. I am instructing the witness. He has shown his attitude by his last answer, where he admits that the B. & L. E. has nothing to do with the rate on ore, coke and limestone.

MR. CORNEAU: He said he understood so and so.

By MR. SEVERANCE:

Q. Do you undertake now to swear—I want you to answer this question yes or no—that the Bessemer & Lake Erie Railroad is a member of the Trunk Line Association, or has any representation, direct or indirect, in that Association?

A. Except what I have heard.

Q. Do you undertake to swear that the Bessemer & Lake Erie is a member of the Trunk Line Association, or has any representation, direct or indirect, in that Association? I want an answer yes or no.

A. It cannot be answered that way.

Q. It cannot?

A. No, sir.

Q. You decline to say yes or no to that question?

A. Yes, sir.

Q. Who told you? You said it was what you heard. Who told you?

A. I have heard it from various sources.

Q. Name one person.

A. I decline to answer that.

Q. I will ask that the witness be directed to answer. That is a proper question, this is perfectly proper cross examination. Counsel will say it is proper.

MR. DICKINSON: No; I think if he states it is hearsay that then it would go out as incompetent, and being hearsay I do not think it is properly the subject matter of cross examination. He has shown that it is hearsay.

MR. SEVERANCE: Then, do I correctly understand, Judge Dickinson, that the answer of the witness may be disregarded, that his statement that they are members of that association may be disregarded?

MR. DICKINSON: I think it is a rule of law that if a man states he has only heard of a matter that it is not evidence.

MR. SEVERANCE: You admit it is not evidence.

MR. DICKINSON: I think every lawyer would admit that, unless he heard it from somebody who was involved in the matter.

MR. SEVERANCE: I ask that the witness be directed to answer my question as to the name of the person from whom he heard that.

THE WITNESS: I decline to answer.

MR. SEVERANCE: I ask you, Mr. Examiner, that you require the witness to answer.

EXAMINER BROWN: Mr. Severance, the examiner has no authority to compel a witness to answer if he declines to do so.

By MR. SEVERANCE:

Q. Mr. Kennedy, you stated, as I understood you, in answer to counsel for the Government, that the Bessemer & Lake Erie is a member of the Classification Committee. Do you not know, as a matter of fact, Mr. Kennedy, that the Bessemer & Lake Erie is not a member of the Classification Committee?

A. It was hearsay on my part.

Q. Is all your testimony hearsay?

A. No, sir.

Q. Are you in here to argue things and not testify?

A. Not necessarily.

MR. CORNEAU: I object to that statement of counsel's. He has not argued anything.

MR. BOLLING: He did not state before that it was hearsay on his part, but made the direct statement.

MR. SEVERANCE: Let us hear his answer on that. Let the testimony be read. As it does not seem to be available, we will not stop for that. The record will show that he testified positively on that.

MR. CORNEAU: Yes, the record will show.

By MR. SEVERANCE:

Q. You stated that the Central Freight Association territory included everything east of the Mississippi River and north of the Ohio down to Buffalo?

A. Practically so; yes, sir. That is the general outline—

Q. Then, it includes the Old Range territory in Michigan and Wisconsin that you testified about?

A. Southern Michigan, I said.

Q. Did you say that?

A. I think so.

Q. Do you not know that you did not say that?

A. No; I do not know anything of the kind.

Q. You said Mississippi River and north of the Ohio. You said that you knew of no traffic conditions justifying higher rates on the Duluth, Missabe & Northern, and the Duluth & Iron Range than those on the Soo and Northwestern in Michigan. That is right, is it not—you did say that?

A. I said in Michigan, I think, did I not?

Q. You have testified, and I call attention to the fact, as to movements from the old range to Ashland over the Soo.

A. Yes, sir.

Q. And Ashland is in Wisconsin and not in Michigan, is it not?

MR. CORNEAU: Just over the line.

A. Just right there at the line.

By MR. SEVERANCE:

Q. Is not Ashland in Wisconsin?

A. I will grant you that; yes, sir.

Q. Then, did your answer include Wisconsin and Michigan both, or only Michigan?

A. In connection with Ashland it included both states.

Q. That is what I thought. Is not one thing of some importance in determining rates on any specific commodity the amount of other commodities that move over the same rails?

A. Yes, sir.

Q. You know, do you not, that Ashland, Wisconsin, is an important lake port?

A. It is.

Q. It is a port at which large movements of merchandise are discharged for distribution over the country—merchandise coming from the east. Is not that true?

A. Not very large amounts, no.

Q. What is the tonnage?

A. They have not the facilities for handling large amounts there.

Q. What is the tonnage?

A. I do not know the tonnage.

Q. Have they not very good sized docks there?

A. Not very good.

Q. At which ships coming up the lakes stop?

A. Not near the capacity of Duluth and Superior.

MR. CORNEAU: Are you talking about tonnage from the upper peninsula of Michigan? That is what he is talking about.

MR. SEVERANCE: No; you do not apprehend my question. I am showing that these roads that handle Michigan ore have a lot of business besides that.

MR. CORNEAU: The D. S. S. & A. does not run down into Michigan.

MR. SEVERANCE: I am talking about the Soo.

MR. CORNEAU: Well, the Soo does not, from that territory.

MR. SEVERANCE: It does not?

MR. CORNEAU: No.

MR. SEVERANCE: The Soo, I will state for the benefit of counsel, is the lessee of the Wisconsin Central, and runs through Wisconsin; and I will state further, for the informa-

tion of counsel, that it has a line running down to St. Paul and Minneapolis, reaching Ashland and Duluth.

By MR. SEVERANCE:

Q. Do you not know, as a matter of fact, that large amounts of merchandise come up the lakes, are discharged at Ashland, and move out over the same rails, over the Soo road, that brings in ore?

A. Not large amounts, no sir; not to my knowledge.

Q. You do not know anything about how much it is, do you?

A. No, sir.

Q. Do you know, as a matter of fact, that the movement of other commodities over the Iron Range and the D. M. & N. is very small in proportion to the ore movement?

A. I appreciate that; yes, sir.

Q. You know that, do you not?

A. Yes, sir.

Q. And you know that the cars that bring down the ore in most cases go back empty, do you not?

A. Yes, sir.

Q. And that involves, then, instead of a haul on the average of 78 miles over the D. M. & N. a loaded haul of 78 miles and an empty haul of 78 miles on the same car?

A. Practically so, yes, sir.

Q. And the same double haul is necessary on the Duluth & Iron Range?

A. Yes, sir.

Q. Is that an all the year around business?

A. No, sir.

Q. How many months of the year does it continue?

A. I should say seven months.

Q. What use can the Duluth, Missabe & Northern and the Duluth & Iron Range put their ore cars to during the other five months of the year?

A. Nothing but coal.

Q. And there is very little of that in proportion to the total number of cars available?

A. I will answer that yes.

Q. You have given the average distance over the Duluth,

Missabe & Northern as 78 miles—you testified to that yesterday afternoon?

A. Yes.

Q. Have you the detail of that before you?

A. Yes.

Q. In front of you now?

A. Yes.

Q. The distance to Coleraine is 86 miles, is it not?

A. Yes, sir.

Q. And that is out where the washing plant is located, is it not?

A. I do not remember the plants, no, sir.

Q. You do not know anything about the washing plant? Your observation was not sufficient up there to notice that?

A. Not to take in the names of the plants; no, sir.

Q. I am not talking about a mine; I am talking about the big washing plant. Did you see that?

A. Yes; I saw that.

Q. You could not travel through that country without seeing it. It is up in the air?

A. Yes.

Q. That is Coleraine, is it not?

A. Yes, sir.

Q. What is the distance to Taconite?

A. 83 miles.

Q. And Hibbing?

A. 84 miles.

Q. Correct. What is the distance to Biwabik?

A. Eighty miles.

Q. 81 miles, is it not?

A. 80 miles, I figure it.

Q. And to Chisholm?

A. 83 miles.

Q. The mines that were covered by the Hill lease, from which a great amount of this ore is taken which is moved down to Duluth, are over in the vicinity of Coleraine, are they not?

A. I could not testify to that.

Q. Do you know about that?

A. I do not. I do not know anything about the Hill leases.

Q. You do not know, as a matter of fact, the average distance the ore is hauled that is included in this total of 13,000,000 odd tons hauled to Duluth in 1909 or 1910, do you?

A. I could not tell you how much originates at each point; no, sir.

Q. You do not know where it comes from?

A. No, I could not divide it up.

Q. So, for all you know, one-half that tonnage may have come from Coleraine, 86 miles away, instead of from other places 78 miles away?

A. My observation is that a majority of it comes from Hibbing and Virginia.

Q. And that was that two days' observation, one day at a time on two different occasions?

A. Yes, and general conversation up there.

Q. General conversation?

A. Yes.

Q. A little more hearsay. Hibbing is 84 miles, is it not?

A. Yes, sir.

Q. That is within two miles as far as Coleraine. So I do not think you and I will quarrel over those two miles. If a majority of it comes from Hibbing and Virginia, a lot of it comes 84 miles, does it not?

A. I suppose it does; yes, sir.

Q. You realize, do you not, Mr. Kennedy, as a skilled traffic man, that in fixing rates you have to give some consideration to the value of the property employed in the transportation?

A. I guess that is considered slightly; yes, sir.

Q. It ought to be, ought it not?

A. It should be, yes.

Q. If you spent \$15,000,000 or \$20,000,000 on a road you would hardly say that commodities should be transported over the road at the mere cost of transportation, would you?

A. Well, I would first figure on the ratio of operating expenses.

Q. Certainly. I say you would not claim that it would be fair to the railroad, to the owners of the property, to give

them a rate which would merely cover the cost of conducting transportation over that property?

A. I would say not.

Q. You would have to make the rate high enough to include that and the cost of maintenance, and interest charge upon the cost of the property, would you not?

A. I should think so; yes, sir.

Q. You stated a while ago, in reference to the Bessemer & Lake Erie, and the alleged advantage that the Steel Corporation possesses over companies that do not own a road like the Bessemer & Lake Erie, as follows: You said the difference between the published rate of 96 cents and the cost of 28¼ cents a ton, which it costs the Bessemer & Lake Erie to handle this traffic, was the benefit or advantage derived by the corporation by the ownership of that road?

A. In the movement to Pittsburgh from Conneaut Harbor, yes.

Q. Why, in view of your last statement, that you should include not only the cost of transportation, but the interest on the investment, do you eliminate in that statement all reference to the interest on the investment?

A. I do not claim that they should actually only earn 28 cents a ton. If they have certain fixed charges which are proper, and the capital stock is not watered, then I would say make the interest right and add that to your rate, and get a reasonable rate.

Q. Wait a minute. I am trying to discuss with you now your former answer.

MR. CORNEAU: You had better get his former answer; let us have the actual testimony.

MR. SEVERANCE: Very well, if we can get it. He was asked the question by Mr. Corneau as to the advantage possessed by the Steel Corporation over the independents by reason of the ownership of that road.

By MR. SEVERANCE:

Q. Well, if I am correct in my recollection, and my notes are correct as to what you said, that the benefit possessed by the Steel Corporation over that enjoyed by parties not own-

ing a railroad in the steel business was the difference between the published rate of 96 cents on ore and the cost of $28\frac{1}{4}$ cents a ton for handling that ore; you do not stand for that answer now, do you?

A. I modify that to the extent of saying that they should be entitled to some compensation for their investment.

Q. Did that $28\frac{1}{4}$ cents include maintenance charges?

A. I understand it does; yes, sir.

Q. From what do you understand it?

A. It includes all charges in connection with the movement. It does not specify maintenance charges and the handling of the ore,—

Q. Maintenance charges have nothing to do with the cost for conducting transportation.

A. I appreciate that.

Q. They have nothing to do with the movement. Therefore, that $28\frac{1}{4}$ cents a ton does not include anything but the movement.

A. That is the way this report reads; yes, sir.

Q. Then you must add to the $28\frac{1}{4}$ cents not only interest upon the investment, but you must add maintenance charges in order to arrive at the actual advantage, if any, possessed by the Steel Corporation over its competitors, by reason of its ownership of this road?

A. Yes. I guess that is right.

Q. And that makes quite a little difference?

A. Yes; I guess it does. Not a whole lot, at that, though.

Q. Well, how much?

A. I have not estimated that; but, taking the ratio of operating expenses of the Bessemer & Lake Erie, 42 per cent. is a pretty lovely profit to take care of those things, those extras, over operating expenses.

Q. Will you kindly tell how much it is?

A. I cannot tell you.

Q. How much is it?

A. I do not know.

Q. You do not know, do you?

A. No, sir.

Q. Where do you get that $28\frac{1}{4}$ cents?

A. I had a special accountant work it up for me.

Q. You did?

A. Yes.

Q. Who was he?

A. Jean Paul Muller of Washington.

Q. What is his business?

A. Accountant and attorney-at-law—expert accountant.

Q. That is a lawyer's conclusion, is it?

A. That is his expert report; yes, sir.

MR. SEVERANCE: In view of the fact that this testimony is now shown to be entirely founded upon hearsay, worked up by somebody else, I move that all testimony of the witness with reference to the alleged advantage possessed by the Steel Corporation through the ownership of the Bessemer & Lake Erie on ore movements be stricken from the record. Is there any objection to that?

MR. CORNEAU: We might as well state at this time that we expect to supplement this testimony with the proof of the figures themselves by the man who made them.

MR. SEVERANCE: Do I understand correctly that you object to striking the statement from the record?

MR. CORNEAU: I certainly do.

MR. BOLLING: Then it ought to be offered on the condition that you connect it up.

MR. CORNEAU: No, we will not make any condition at this time. You can make the motion to the Court at the proper time and argue it then.

MR. BOLLING: This testimony has no right to be lugged in without even a promise of any kind on your part to connect it.

MR. CORNEAU: I thought you asked me if I would not agree that it should go out.

MR. SEVERANCE: No; Mr. Bolling asked you if you would agree that if you do not supplement it, that then it will go out.

MR. CORNEAU: No; if we do not supplement it, there will still be a question to be argued to the Court.

By MR. SEVERANCE:

Q. Now, will you kindly repeat for me what this cost of 28 $\frac{1}{4}$ cents covers, from what point to what point?

A. Conneaut Harbor, Ohio, to North Bessemer, Pennsylvania.

Q. Mr. Kennedy, you testified before the Interstate Commerce Commission, did you not, in this case that you have mentioned, the ore rate case?

A. Yes, sir.

Q. You testified there upon the same subject—the cost of the movement to the Bessemer & Lake Erie, did you not?

A. Yes, sir.

Q. You testified there, not to 28 $\frac{1}{4}$ cents, but you testified that it was only 26 cents, did you not?

A. Yes, sir.

Q. You testified there that the movement did not stop at North Bessemer, but continued down over the rails of the Union to the furnaces, did you not?

A. No, sir; I did not. See if you do not find that modified.

Q. You have stated now that the movement included the movement from Conneaut Harbor to North Bessemer. How far is North Bessemer from the furnaces?

A. Eight miles.

Q. And that is the point of junction between the Union and the Bessemer & Lake Erie?

A. That is the destination of the ore, yes.

Q. And the ore is taken from the Bessemer & Lake Erie at this junction point, North Bessemer, and taken by the Union Railroad and delivered at the furnace, is it not?

A. Yes, sir.

Q. And it is the cost of moving the ore from Conneaut Harbor to North Bessemer that you now say, based upon the figures made by your friend in Washington, is 28 $\frac{1}{4}$ cents?

A. Yes, sir.

Q. And you testified to 26 cents in that ore rate case?

A. Yes.

Q. And you say now, do you, that that 26 cents that you

testified to referred to the same service, from Conneaut Harbor to North Bessemer, and no more?

A. To North Bessemer, and no more.

Q. Let me ask you if you gave the following testimony in that case. I will call your attention to the testimony at page 279 of the record in that case.

MR. CORNEAU: Have you the record?

MR. SEVERANCE: I have the quotation from it.

MR. CORNEAU: But you have not the record?

MR. SEVERANCE: It is not here. I have seen it.

By MR. SEVERANCE:

Q. (Reading:)

“MR. BROWN: Now, did you understand that that figure of 26 cents included the cost of any service performed by the Union Railroad?

“Mr. Kennedy: I did; yes, sir.

“Mr. Brown: You understood it to cover it all?

“Mr. Kennedy: Yes, sir.

“Mr. Brown: Does the Union Railroad report separately to the I. C. C., or do you know?

“Mr. Kennedy: I believe they do; yes, sir.

“Mr. Brown: Well, would the cost to the Union Railroad then be included in the reports of the B. & L. E. Railroad?

“Mr. Kennedy: I am not so sure but that the B. & L. E. Railroad perform the service with their own power right to the furnaces.

“Mr. Brown: You understand, then, that the B. & L. E. R. R. operate over the tracks of the Union R. R.?

“Mr. Kennedy: Yes, sir.

“Mr. Brown: And perform this service themselves?

“Mr. Kennedy: I do not say they perform all this service themselves. I understand they perform the service of bringing the ore down and placing it in position to be placed.

“Mr. Brown: Delivering it at the plants?

“Mr. Kennedy: Except placing at the plants in the plants.

“Mr. Brown: Are you sure about that, Mr. Kennedy?

“Mr. Kennedy: Well, from personal observation I should say I was; yes, sir.

“Mr. Brown: So you are willing to say that this cost figure of 26 cents includes cost of any service performed by the Union R. R.?

“Mr. Kennedy: Not any service performed by the Union R. R.

“Mr. Brown: Well, that is a little too broad, I admit. Any service performed by the Union R. R. in making deliveries of the ore to a plant which is reached by the U. R. R.?

“Mr. Kennedy: I do not say it includes the cost to the Union Railroad in placing ore at tipples, or anything of that sort, or unloading machinery, where there is additional power necessary, but my experience is they bring ore over the Bessemer, the same crews, and place it in position for the plant facility to get hold of. The Union Railroad puts it where it is needed in the works.

“Mr. Brown: What are the investigations you made on that subject?

“Mr. Kennedy: I have been over the line myself and through the yards without getting arrested.”

Do you remember that?

A. You bet.

Q. (Continuing) “Mr. Brown: Do you think that going over the line and through the yards without getting arrested enables you to testify affirmatively to this statement about the cost?

“Mr. Kennedy: In connection with what I have heard otherwise; yes, sir.

“Mr. Brown: Where do you understand the traffic is to be delivered on the Union Railroad by the power of the Bessemer & Lake Erie?

“Mr. Kennedy: Ore from Conneaut Harbor intended for the Duquesne Works would be taken directly to the Duquesne Works yards. Ore for the Edgar Thompson, which is right in the general yards of the Union Railroad, would be taken directly there.

“Mr. Brown: Now, you mean by taken direct there, taken by the power of the Bessemer & Lake Erie?

“Mr. Kennedy: Yes, sir.

“Mr. Brown: And delivered at those plants?

“Mr. Kennedy: Delivered at what we call—I should call a constructive placement at those plants.

“Mr. Brown: Then, does the Union Railroad perform the service?

“Mr. Kennedy: The Union Railroad performs the service which is necessary at their plant of placing the car wherever it is desired at a specified time.”

Now, did you give that testimony?

A. Yes.

Q. It was not true, was it?

A. Yes, sir.

Q. It was?

A. Yes, sir. North Bessemer is a constructive delivery for all that ore. It is consigned to North Bessemer, care of the Union Railroad. The movement beyond there is a plant movement, on account of the way it is consigned.

Q. Let us see if that is the way you testified. You have just testified that you formerly testified as follows:

“Ore from Conneaut Harbor intended for the Duquesne Works would be taken directly to the Duquesne Works yard. Ore for the Edgar Thompson, which is right in the general yards of the Union Railroad, would be taken directly there.”

“Mr. Brown: Now, you mean by taken direct, being taken by the power of the Bessemer & Lake Erie?

“Mr. Kennedy: Yes, sir.

“Mr. Brown: And delivered at those plants?

“Mr. Kennedy: Delivered at what we call—I should call a constructive placement at those plants.”

That is what you swore to?

A. I base that on the fact that their motive power hauled the cars, and I saw them.

Q. Do I understand you correctly to now testify that this cost of 28¼ cents, formerly stated as 26 cents, involved placing the cars at the Duquesne yards or at the Edgar Thompson yards by the Bessemer & Lake Erie?

A. It only involves—

Q. Do you swear to that?

A. It only involves placing the cars at North Bessemer, or the constructive delivery, the same as any other concern takes ore from the trunk line and performs a service in—

Q. You are talking about one thing and I am talking about another. There is no such thing as a constructive delivery where it is delivered from one line to another, if we treat the Union as an independent line, which we are doing for the purpose of distributing costs.

A. It is known as a constructive—

Q. Wait a minute. I am supposed to be asking the questions, and I want you to answer them. In the ore rate case, where you were trying to get your rates reduced, you swore that this cost of 26 cents included the cost of the Bessemer & Lake Erie hauling that ore from Conneaut Harbor to the Duquesne yards and to the Edgar Thompson yards. That is what you swore to, is it not?

A. With the modifications I mentioned.

Q. I just read it to you, did I not?

A. I say, with the modifications in the record.

Q. That is not true, is it?

A. With those modifications; yes, sir.

Q. No. Do you still say that 26 cents, or call it $28\frac{1}{4}$ cents now, includes the cost of transporting that ore from Conneaut Harbor to the Duquesne yards or the Edgar Thompson yards?

A. It includes the cost of service to North Bessemer.

Q. Answer my question. Does it include the cost of moving that ore from Conneaut Harbor to the Duquesne yards or the Edgar Thompson yards? Answer that question yes or no.

A. This report shows that it only includes the Bessemer haul—

Q. I want you to answer my question squarely. I am not asking you to look at a report and tell me what that report shows. I am asking you about your own testimony that you gave before the Interstate Commerce Commission.

MR. CORNEAU: No. You are now talking about this $28\frac{1}{4}$ cent rate.

By MR. SEVERANCE:

Q. You testified before the Interstate Commerce Commission, Mr. Kennedy, that 26 cents covered the cost of moving the ore from Conneaut Harbor to the yards of the Edgar Thompson Works or to the Duquesne yards. Do you still say that? Answer that question yes or no.

MR. CORNEAU: That is not quite a fair statement of his answer, Mr. Severance.

MR. SEVERANCE: Yes, it is. That is exactly what he said.

MR. CORNEAU: I do not think so.

MR. SEVERANCE: He said it over and over again. I read it to him.

MR. CORNEAU: He said it had been transported with the motive power of the Union Railroad.

MR. BOLLING: He said they performed their service with their own power right to the furnaces.

MR. CORNEAU: What furnaces are you talking about?

MR. BOLLING: The Edgar Thompson and the Duquesne.

MR. SEVERANCE: He swore to that, and he knows it.

MR. DICKINSON: I object to that kind of a statement, that the witness knows it. It is an effort to intimidate the witness.

MR. SEVERANCE: You do not know this witness. You cannot intimidate this witness.

THE WITNESS: Thank you. I am much obliged.

MR. DICKINSON: I never saw the witness before, but I do not think it is proper for counsel to make such a remark, and I except to it. I regard it as an improper observation on the part of counsel, and I desire my objection noted on the record.

By MR. SEVERANCE:

Q. Mr. Kennedy, you stated what I have just read to you, namely, that the movement covered by the 26 cent cost included the movement from Conneaut Harbor, when intended for the Duquesne Works yard and for the Edgar Thompson yard, right into the general yards of the Union Railroad. Do you still adhere to that statement, or do you now say that the 26 cent rate should be 28¼ cents, and that the movement covered by that is only to North Bessemer?

A. To North Bessemer; yes, sir.

Q. Have you taken the trouble to inform the Interstate Commerce Commission that you made a mistake in your testimony?

A. Not as yet; no, sir.

Q. You will do that, will you?

A. It would not be any trouble to do it, of course.

Q. Your case has not yet been decided, has it?

A. No, sir.

Q. It has not yet been argued?

A. No, sir.

Q. It is still open?

A. Yes, sir.

Q. Your testimony has been closed, has it not?

A. Not entirely.

Q. As I understand you, there is no ore whatever consumed by any furnaces in this district, outside of those of the Steel Corporation, that moves over the Bessemer & Lake Erie?

A. That is true; yes, sir.

Q. So that they do not get any high freight rate on your ore, or on anybody else's ore?

A. No, sir.

Q. Whatever they charge above what you think is a fair rate, they pay themselves; that is, one subsidiary pays another subsidiary?

A. I imagine that is so; yes, sir.

Q. And it is immaterial to the outside steel manufacturers how that rate is divided as between the Bessemer & Lake Erie and the Union, is it not?

A. It is immaterial; yes.

Q. That makes no difference?

A. No, sir.

Q. You do not know how much the Union Railroad properties cost, do you?

A. No, sir.

Q. You do not know how much the Bessemer & Lake Erie cost?

A. No, sir.

Q. You stated, in answer to counsel, that the Corporation had in the Valleys a furnace capacity of about 40 per cent. of the total, I believe you said?

A. That is my understanding; yes, sir.

Q. About 40 per cent., as against 60 per cent. to the outsiders?

A. Those are rough figures; yes, sir.

Q. Is it not a fact, sir, that last year the ore tonnage to the Corporation works, as follows, the Ohio works at Youngstown, the New Castle works, North Sharon, South Sharon, Niles furnace—those are the Valley plants of the Steel Corporation?

A. Yes.

Q. (Continuing) Amounted to 3,972,000 tons; while the tonnage to the Youngstown Sheet & Tube Company and the Republic Iron & Steel Company, the competitors in the Valleys, amounted to 2,239,000 tons annually?

A. I cannot answer that.

MR. CORNEAU: Do I understand you to state that those two are the only competitors in the Valleys, Mr. Severance?

MR. SEVERANCE: Those are their largest competitors.

By MR. SEVERANCE:

Q. Those are their largest competitors, are they not?

A. Yes, sir; the largest ones.

Q. Where did you get your information that 3,972,000 was only 40 per cent.?

A. I did not give those figures.

MR. CORNEAU: He has not said he had any information about that. This is tonnage, and he was talking about capacity.

By MR. SEVERANCE:

Q. What roads did you make your complaint against with reference to the rate on ore from the lower lake ports to Pittsburgh?

A. The Lake Shore, the P. & L. E. and the Pennsylvania lines.

Q. Those lines are not affiliated by ownership with the Bessemer & Lake Erie, are they?

A. I could not tell you that.

Q. You do not know that they are, do you?

A. No, sir; I do not.

Q. How many years has that 96 cent rate been in force?

A. Since 1909.

Q. What was the rate previous to that time?

A. \$1.14.

Q. How many years had the \$1.14 rate been in force?

A. I could not state exactly, but on April 6, 1907, that rate took effect; and on August 2, 1909, it was reduced to 96 cents.

Q. What was the rate before the \$1.14 rate?

A. I cannot remember.

Q. Can you not tell us about what it was?

A. I have not the data.

Q. Was it higher or lower than the 96 cent rate?

A. I think it was higher.

Q. It was higher still?

A. I think so.

Q. Has there at any time been a lower rate than the 96 cent rate?

A. Not to the Pittsburgh district; no, sir.

Q. How far back did you conduct your investigation on that question?

A. Back to 1907.

Q. Have you never looked back in the old days, in the 90's?

A. I did not see the necessity for doing it.

Q. Did you do it?

A. No, sir.

Q. Do you know anything about what the rates were? Have you ever been told?

A. Yes; I have read the testimony given by Mr. Orr. He gave all the rates since 1883.

Q. What were the rates, we will say, in the late 90's?

A. I cannot guess.

Q. Were they higher or lower than the present rates? You must remember that.

A. I would not like to say.

MR. CORNEAU: You want some hearsay, evidently, Mr. Severance.

MR. SEVERANCE: He has been giving nothing else all the time.

By MR. SEVERANCE:

Q. You have no knowledge as to what the ore rates were, or whether they have ever been lower than 96 cents?

A. I do not think they have, no, sir, to the Pittsburgh district.

Q. The 96 cent rate is not a rate that has been put up to that point since the organization of the Steel Corporation?

A. No, sir.

Q. So that, if there is any difference in the rate now and the rate obtaining previous to the organization of the United States Steel Corporation, the rate is now lower than it was before?

A. Yes; and the last reduction, I believe, was due to the question of docks; it was due to a change in dockage arrangements, which did not affect the rate any.

Q. You said, in answer to counsel, that you could not conceive of any reason why the Pittsburgh rates on ore should be higher than the rates to these other districts.

A. Yes.

Q. Are you sure that you never had any explanation of that from railroad men?

MR. CORNEAU: He did not say that he had never had any explanation from them.

MR. SEVERANCE: He said he could conceive of no reason.

THE WITNESS: Of no legal reason, no.

By MR. SEVERANCE:

Q. Oh, no legal reason?

A. Yes.

Q. It is a question of law you are deciding, then?

A. Yes.

Q. Is it not a fact that you have been informed by railroad men that the reason that the ore rates are higher here is

that the coal rates into the Pittsburgh furnaces are lower than they are into these other districts?

A. I have heard that statement.

Q. And the limestone rates are lower, and that the rates all through this country that is producing pig iron have been, by the trunk lines, adjusted on a basis through which they have endeavored to equalize the cost of assembling the raw materials at the furnaces?

A. I will answer that by saying that any explanation of that kind that I have heard is all hearsay.

Q. I ask whether that explanation is the one that has been given by the carriers.

MR. CORNEAU: That is objected to as incompetent, irrelevant and immaterial.

THE WITNESS: They have not given any.

By MR. SEVERANCE:

Q. They have testified to that?

A. In a very small way; yes.

Q. They testified to it in your ore rate case, did they not?

A. They tried to, yes.

Q. Well, they tried to.

A. They have not finished yet.

Q. As far as their effort went they were successful, were they not, in giving the testimony? I do not attempt to say anything about the effect of it. I do not know anything about that. They, at least, succeeded in getting that out of their system and into the record, did they not?

A. Yes; if that is what you want.

Q. Then it was not quite accurate, was it, for you to say that you could conceive of no reason, if that reason had been given by the trunk lines?

A. That is not my reason.

Q. Oh. That is not your reason?

A. No.

Q. What is the rate on coal from the mines to the furnaces in the Pittsburgh district?

A. I do not know.

Q. What is the rate on coal from the mines to the furnaces in the Youngstown district?

A. I do not know.

Q. Have you any data in front of you by which you can state?

A. No, sir.

Q. You have never looked that up?

A. I never had any occasion to look it up.

Q. Did you not tell us that you used to be a rate clerk with the Lake Shore?

A. That never affected coal rates within the Pittsburgh district, or any other district, at that time.

Q. What particular part of the rates did you make when you were rate clerk?

A. The coal was all handled by the Pittsburgh & Lake Erie general—

Q. What particular part of the rates did you construct when you were a rate clerk?

A. I did not construct any. I simply used the tariffs that were published.

Q. You had nothing to do with the making of rates, then?

A. No, sir; nothing whatever.

Q. You do not remember anything about those coal rates?

A. No, sir.

Q. You never regarded that as of sufficient importance in connection with the ore rate case to look it up?

A. It did not enter into the ore rate case at all, as we saw it.

Q. You did not regard it as sufficiently important to justify your taking the time to look it up?

A. No, sir.

Q. So that you do not know what the coal rate is into the Youngstown district nor into these other districts?

A. No, sir.

Q. Or the Wheeling district?

A. No, sir.

Q. Do you know, as a matter of fact, whether the rates on coal are higher to the Youngstown district than to the Pittsburgh district?

A. I never looked it up.

Q. That is not what I asked. Do you know?

A. No, sir; I do not.

Q. You have no knowledge on the subject?

A. No, sir.

Q. So far as you know, the rates on coal from these mines around Pittsburgh up to the Youngstown district may be lower than the rates into Pittsburgh?

A. They may be; yes, sir.

Q. You would not know anything about that?

A. No, sir.

Q. And as a traffic man, you would regard that as all right, would you not?

A. No, sir; I would not.

Q. You would think that the rates ought to be higher on coal to the Youngstown district and these other districts than to the Pittsburgh district?

A. Naturally, yes.

MR. CORNEAU: Will you let him state why, if you do not mind, Mr. Severance?

By MR. SEVERANCE:

Q. It is on account of the distance, is it not?

A. On account of the distance, yes, sir.

Q. Do you know anything about any other railroad handling iron ore in the Lake Superior district in Minnesota except the Great Northern, the Duluth, Missabe & Northern and the Duluth & Iron Range?

A. No, sir.

Q. You have never heard of the Soo doing that work?

A. From Minnesota?

Q. Yes.

A. The Soo Line?

Q. The Soo Line, yes.

A. No.

Q. You are not aware of the fact that the Soo Line reaches the Cuyuna Range, the new range west of the Mesabi?

A. No, sir.

Q. How did it happen that you did not look that up on your visits up there?

A. I could not cover it all during the time I took.

MR. CORNEAU: He said he was not aware of it.

MR. SEVERANCE: Well, he is an all-around railroad expert.

MR. CORNEAU: Oh, no; he has not said any such thing.

By MR. SEVERANCE:

Q. You are not aware of the fact that they have built large ore docks at Superior in connection with the movement of that ore?

A. I knew they were building some, yes.

Q. You did know that?

A. Yes.

Q. What did you think they were going to use them for?

A. I did not know.

Q. Did you think they built them just to look at?

A. To invest their money, I suppose.

Q. The Soo Railroad is one of the lines down in Wisconsin of which you have spoken?

A. Yes.

Q. And they got a 40 cent rate, I think you said, for how long a haul—an average of 58 miles?

A. I think it was 58 miles, yes.

Q. Give me the detail of that, to make up that average of 58 miles.

A. From Bessemer, Michigan, and from Ironwood, Michigan.

Q. What is the distance?

A. I have not got the separated distances; just the average of the two, the total, in one figure.

Q. How far apart are they?

A. They are pretty close together.

Q. How far apart?

A. I imagine five or six miles, or in that neighborhood.

Q. You have been there, have you not?

A. Yes, sir.

Q. Those are the only two points from which they take ore?

A. They are not the only two points. Those are the only two that I have been at.

Q. What are the others?

A. Those are the only two that I have been at, from which they publish the 40 cent rate.

Q. Have they any other mines from which they publish the 40 cent rate except those two points?

A. They may have.

Q. You do not know?

A. I do not.

Q. Why did you not look it up?

A. I do not know.

Q. How did you happen to pick out these two?

A. They looked like the largest.

Q. Then you did see others, did you?

A. These looked like the largest, on paper, from a tonnage-producing standpoint.

Q. I understand, then, that you did know that there were other mines on the Soo beside those two?

A. I did not.

Q. How could they look the largest, if there were no others to compare them with?

A. They looked the largest in that district, those two mines. I do not know whether they were on the Soo or not.

Q. How could they look the largest, if you did not compare them with anything else?

A. As a matter of fact, they are the largest, are they not?

Q. What are the mines that you say are smaller?

A. I could not tell you right now, off hand.

Q. How far out of Ashland are the other mines?

A. They are in the vicinity of these mines.

Q. How far out of Ashland?

A. I could not answer that.

Q. You know nothing about the average distance into Ashland from those mines?

A. I did not say I saw all the mines.

Q. You did testify to that distance yesterday?

A. I did not.

Q. Then I understand that all your distance table into Ashland meant was this, that you picked out two points out on the Soo Road, and you have averaged the distance from those two points into Ashland, and have given us the benefit of that deduction. That is all?

A. That is right.

Q. And as to whether they have shorter hauls from other mines for which they receive 40 cents, you know nothing about?

A. No, sir.

Q. What about the North Western Line? What points did you take in making up that estimated distance?

A. Iron River and Crystal Falls, Michigan.

Q. How far are they from Escanaba?

A. Seventy miles.

Q. Each the same?

A. They average 70 miles. I have not got it down separately.

Q. On which ranges are these mines from which the ore moves to Escanaba?

A. They are on the Menominee Range.

Q. And the ore moving to Ashland is on what range?

A. I do not remember the names of the ranges and the placement of them, in my head, and I have not the knowledge here before me.

Q. Is it the Gogebic?

A. I would not swear as to that.

Q. You do not know what range it is?

A. No, sir.

Q. Do you know how near to Ashland the nearest mine is from which ore shipments are made?

A. No, sir.

Q. Do you know how near to Escanaba the nearest mine is from which ore shipments are made?

A. Not the nearest ones, no, sir.

Q. Or the farthest?

A. No, sir.

Q. In either case?

A. It would be very nearly impossible to get that information.

Q. There is a good deal of local movement of ore into Ashland, is there not, that does not come down the Lakes?

A. I believe that is right, yes, sir.

Q. Does that move on the same rate?

A. I do not know.

Q. You did not look that up?

A. No, sir.

Q. There are furnaces there at Ashland, are there not?

A. Yes, sir.

Q. Ore is consumed at those furnaces?

A. Yes, sir.

Q. You do not know what the rate is to those furnaces, whether it is the same as the lower lake ore?

A. No, sir.

Q. You testified yesterday, in answer to counsel, that the rate from the Minnesota ranges had been 80 cents until a year ago, or until last November, when it was reduced?

A. Yes, sir.

Q. Which roads first announced that reduction, if you know?

A. My knowledge is that the D. M. & N. and the D. & I. R. made the first announcement

Q. You did not hear that the Great Northern or the Soo reduced their rates up there before the Steel roads?

A. I did not.

MR. CORNEAU: What was the date of that announcement? Did we get that yesterday?

MR. SEVERANCE: He said November, 1911.

THE WITNESS: November 30, 1911, was the effective date.

MR. CORNEAU: The bill was filed the 26th of October, I believe.

By MR. SEVERANCE:

Q. You stated yesterday the average distance to the Youngstown district from the lake ports was 66.9 miles by the short line, did you not?

A. Yes, sir.

Q. What is the shortest haul on that short line included in the 56 cent rate?

A. The shortest haul?

Q. Yes.

A. Fifty-four miles.

Q. Then they get a little over a cent a ton a mile on that?

A. That is the way it figures up, yes.

Q. What point is that?

A. Girard, Ohio.

Q. What is the next nearest?

A. Niles. It is the lowest—no, it is not.

Q. What is the mileage to Niles?

A. Forty-nine miles.

Q. Has the Steel Corporation a furnace at Niles?

A. No, sir.

Q. They have no interest at Niles?

A. Not to my knowledge, they have no interest at Niles.

Q. What is the next nearest?

A. Warren. Warren is the nearest, by the way.

Q. What is the distance?

A. Forty-four miles.

Q. And the 56 cent rate applies, does it?

A. Yes, sir.

Q. How far is Youngstown?

A. Fifty-nine miles.

Q. Then you get almost a cent a ton a mile up to Youngstown?

A. Yes, sir.

Q. Youngstown, then, is eight miles nearer than the average, which is 66.9?

A. Seven miles, practically.

Q. Well, about eight miles nearer. Is it not a fact that Youngstown is the point of largest consumption in that district?

A. Youngstown, Struthers, Haselton and Brier Hill are right together, within a few miles.

Q. Then this 66.9 average haul is not an average of the tonnage haul, is it?

A. Weighted distance, no.

Q. You would say, then, that the bulk of that ore is hauled not over 59 miles, at the outside?

A. I would not say that, no.

Q. Do not Youngstown, and those other places you have mentioned—Warren, Girard and Niles—altogether consume more than half?

A. Struthers is quite a point, and Haselton.

Q. How many miles is Struthers distant?

A. I believe the Youngstown Sheet & Tube are there, and the Republic Iron & Steel—

Q. I say, how far is it; what is the haul?

A. Sixty-four miles.

Q. At any rate, you would say that the very large majority of that ore is hauled much less than 66.9 miles, would you not?

A. No, I would not say that.

Q. You think a majority of it is hauled that far, or farther?

A. At least half of it.

MR. CORNEAU: Are you talking now of all the ore in the district or from these short line points?

MR. SEVERANCE: He stated yesterday the average distance to the district was 66.9 miles. I am trying to find out whether that is the average haul of the actual commodity.

MR. CORNEAU: That is what I am trying to get at. He gave, as I understand it, the average distance from the nearest port to each furnace point, so that he got the average of the shortest lines; but I do not understand that all the ore goes into the Youngstown district from the nearest port. For instance, I judge that ore comes in from Cleveland, Lorain, Ashtabula, Erie and other places.

MR. SEVERANCE: He testified to the average distance computed.

MR. CORNEAU: The average short line distance.

MR. SEVERANCE: From the port to the various places. I am trying to get at whether 66.9 miles is not a greater distance than the average of the ore actually hauled.

MR. CORNEAU: I see.

By MR. SEVERANCE:

Q. Have you any figures from which you can give an opinion?

A. No, sir.

Q. You do not know that?

A. No, sir.

Q. The distance you stated to Aliquippa is 105 miles?

A. Yes.

Q. And the rate is 78 cents?

A. Yes, sir.

Q. Whose plants are located there?

A. The plants of the Jones & Laughlin Steel Company.

Q. On what line is that?

A. The Pittsburgh & Lake Erie.

Q. Is it on any other line?

A. No, sir; no other trunk line.

Q. That is what I mean. It is not on any other trunk line?

A. No.

Q. How far is it from Pittsburgh, in a direct line?

A. Eighteen miles.

Q. Down the river?

A. Yes, sir.

Q. I notice from your testimony yesterday that there seems to be a blanket rate of 90 cents on ore to Iron-ton, Ashland and Cincinnati from the lake ports.

A. A blanket rate?

Q. Blanketed at 90 cents to those three places; just the same. There is no difference?

A. No, sir; there is no difference.

Q. That is what I mean by "blanketed," that there is the same rate to all the places. You pass through some on the way to the others, do you not?

A. You pass through Iron-ton to go to Ashland; yes, sir.

Q. That is what I thought.

A. Yes. There is a difference of four miles in distance between the two towns; across the river.

Q. And Cincinnati is 289 miles; that is 20 miles farther?

A. Yes.

Q. You do not know anything about the cost of getting coal to any of these places, as I understand?

A. The cost of getting coal to those places?

Q. Yes.

A. No, sir.

Q. You were speaking about the advantage to the Steel Corporation growing out of the possession of this railroad, the Bessemer & Lake Erie. The other manufacturers in this district, who manufacture pig iron, get what is called a terminal or furnace allowance, do they not, from the railroads?

A. Yes, sir; if they have a terminal line.

Q. Where they have terminal lines, they get such an allowance?

A. Yes, sir.

Q. Does that apply on anything except iron, limestone and coke destined to pig iron furnaces?

A. You mean iron ore?

Q. Iron ore, coke and limestone.

A. That is all it applies to, except as regards the Monongahela Connecting Railroad and the Union Railroad.

Q. The Union Railroad is rather different in its size and the kind of work it does from the tracks you have, for instance, around the Pittsburgh Steel Company's plant?

A. Somewhat larger, yes.

Q. You testified, did you not, before Commissioner Harlan, when he was taking testimony in this building in connection with the terminal allowances?

A. Yes.

Q. You testified that you did not think that your company was entitled to any terminal allowance, did you not?

A. I did not say it was not entitled to any, but that it did not want it, and would not take it if it was offered it.

Q. You said you could not figure out what it ought to be?

A. That is what I did say; yes, I said that.

Q. You said you did not ask for it, did you not?

A. I said you could not divide up the expense of the terminal lines, placing the proper amount to the manufacturing and the proper amount to the railroad.

Q. Well, you said that you did not want any furnace allowance?

A. Yes, sir.

Q. Did you not testify before the Interstate Commerce Commission, another member of the Commission, Mr. Meyer, in the rate case, that you tried to get it, that you had been rendering bills to the trunk lines trying to get a terminal allowance, and they would not give it to you?

A. I testified that I sent one bill to W. A. Terry, General Freight Agent of the P. & L. E., for \$600, which was declined. That was not the general action of the company—seeking terminal allowances.

Q. Did you not say you went further and sent others, and they had all been declined?

A. I did not, sir; no.

(Thereupon, a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

A. R. KENNEDY,

the witness under examination at the taking of recess, resumed the stand for further

CROSS EXAMINATION (Continued).

MR. SEVERANCE: I will ask the stenographer to repeat the last few questions and answers.

(The stenographer read the last two questions and answers as hereinbefore recorded.)

By MR. SEVERANCE:

Q. Did you not testify to that in substance at the hearing on terminal rates before Commissioner Harlan?

A. I did, yes, sir.

Q. I will ask you if you gave the following testimony before Commissioner Harlan.

“MR. GANN: Has application been made to any trunk line for an allowance?

“MR. KENNEDY: Yes, sir.

“MR. GANN: What line, and when?

“MR. KENNEDY: To the Pittsburgh & Lake Erie within the last three years on inbound ore shipments. That was done in writing, in the way of a claim to the general freight department of the Pittsburgh & Lake Erie, and declined on each occasion. I have made verbal application for allowances on limestone, coke and——

“MR. GANN: To whom?

“MR. KENNEDY: To the same official, and was met with a declination each time.”

Did you so testify?

A. I did.

Q. Why, then, do you now say, as you have just testified, that you only made one claim, and that was a claim of \$600?

A. That is all we did make. It covered all the movements we had into plants during those three years. Another reason——

Q. You did make repeated application and tried to get this allowance, and it was declined——

A. And we expected it would be, because we did not have a blast furnace.

Q. Never mind that. Have you a large ore tonnage in the Pittsburgh Steel Company?

A. Not at the present time, no, sir.

Q. You have no blast furnaces, have you?

A. Not in operation, as yet.

Q. You have never operated one, have you?

A. No, sir.

Q. The ore that you have used has been in connection with open-hearth work?

A. Yes, sir.

Q. What is the extent of your ore tonnage?

A. Has been or will be?

Q. Has been. Give it in round numbers?

A. Approximately 20,000 tons a year.

MR. CORNEAU: I object to this line of testimony as not proper cross examination and as immaterial and incompetent.

By MR. SEVERANCE:

Q. What is the capacity in tons of the Pittsburgh Steel Company?

MR. CORNEAU: Objected to as incompetent, irrelevant and immaterial, and not cross examination.

A. What tonnage do you wish?

By MR. SEVERANCE:

Q. Your output.

A. Is that for the purpose of this case or for some other purpose?

MR. SEVERANCE: Read the question.

(The stenographer repeated the question as above recorded.)

MR. SEVERANCE: Your output.

THE WITNESS: As an approximation, about 400,000 gross tons a year.

By MR. SEVERANCE:

Q. How many years ago was the Pittsburgh Steel Company established?

MR. CORNEAU: Objected to as not proper cross examination, and as irrelevant, incompetent and immaterial.

MR. SEVERANCE: He testified he was their traffic manager and occupied that position for some time, and I wanted to find out how long it had been running.

MR. CORNEAU: That is wholly immaterial and not proper cross examination.

By MR. SEVERANCE:

Q. Go on and answer the question.

A. Since 1902.

Q. What was its capacity at first?

MR. CORNEAU: Objected to as incompetent, irrelevant and immaterial.

A. I do not know.

By MR. SEVERANCE:

Q. What was its capacity when you came there five years ago?

MR. CORNEAU: The same objection.

A. I cannot tell you.

By MR. SEVERANCE:

Q. Has it increased in the last five years?

MR. CORNEAU: The same objection.

A. I would not be surprised if it had.

By MR. SEVERANCE:

Q. Do you know?

MR. CORNEAU: Same objection.

A. Not sufficiently to swear to; no, sir.

By MR. SEVERANCE:

Q. You would not undertake to testify as to whether the output of the Pittsburgh Steel Company is greater to-day, or has been in the last five years, than it was during the first year that you were with them?

MR. CORNEAU: Objected to as incompetent, irrelevant and immaterial, and not proper cross examination.

A. I would not.

By MR. SEVERANCE:

Q. You do not know?

MR. CORNEAU: Same objection.

A. I would not know sufficiently to testify.

By MR. SEVERANCE:

Q. I say you do not know.

MR. CORNEAU: Same objection.

A. No, sir.

By MR. SEVERANCE:

Q. You do not know anything about it?

MR. CORNEAU: Same objection.

A. No, sir.

Q. Have you built any new buildings during that time?

A. I would not be surprised if we did.

Q. I am not asking you whether you would be surprised. I do not think anything would surprise you. But I am asking you as to the fact; have they built any new buildings?

MR. CORNEAU: Objected to, for the same reasons as already stated.

A. I think they have.

By MR. SEVERANCE:

Q. What are they?

A. I could not tell you. That is out of my line of business.

Q. You do not know anything about it?

MR. CORNEAU: Objected to as incompetent, immaterial, irrelevant, and not proper cross examination.

A. No, sir.

By MR. SEVERANCE:

Q. How do you know——

A. (Interrupting) It seems foolish to answer such questions.

Q. It seems foolish to ask them, perhaps, I do not know that it is of much use to ask any question on any ordinary subject coming under your own observation.

Will you state one building that they have built since you went to work with them?

MR. CORNEAU: The same objection.

A. A steel plant, I guess.

By MR. SEVERANCE:

Q. Furnaces in connection therewith?

MR. CORNEAU: The same objection.

A. Yes, sir.

By MR. SEVERANCE:

Q. Open-hearth furnaces?

MR. CORNEAU: The same objection.

A. Yes, sir.

By MR. SEVERANCE:

Q. You are not surprised at that, are you?

A. No.

Q. How many open-hearth furnaces have they built since you went to work for them?

MR. CORNEAU: The same objection.

A. I think there are eight.

By MR. SEVERANCE:

Q. Was that a thing that you could not be sure about?

A. I did not come here to testify about that at all. That is out of my line entirely.

Q. Mr. Kennedy, you are not here to say as to what you will be interrogated about; you are here to answer questions that are put to you. A moment ago you testified you were not able to testify as to what enlargements had been made at that plant, and now you testify that eight open-hearth furnaces have been built.

A. In answer to your inquiries, yes.

Q. And both those answers are correct, are they?

A. Yes.

Q. You must have known about the eight open-hearth furnaces when I first asked you about any improvements or enlargements, did you not, three minutes ago?

MR. CORNEAU: Objected to as not proper cross examination.

A. Yes, I guess I did.

By MR. SEVERANCE:

Q. Did you not know that then?

A. Yes, I guess I did.

Q. We have gotten that far. You do know that they built eight open-hearth furnaces?

A. Yes, sir.

Q. What else have they built?

A. I do not know.

Q. Have they built any finishing mills?

A. No.

Q. No finishing mills at all?

A. Not the Pittsburgh Steel Company, no.

Q. Have they built any rolling mills during that period?

A. I believe they built one rod mill.

Q. Why did you say a moment ago that you did not know?

A. I believe they have.

Q. You believe so?

A. Yes; I am not altogether certain of it.

Q. Do you ever go to the plant?

A. Yes.

Q. Where is your office?

A. In Pittsburgh.

Q. Where is the plant?

A. At Monessen.

Q. How far away is that?

A. About 40 miles.

Q. How often do you go there?

A. Whenever I can spare the time.

Q. How often is that? I do not know how busy you are.

A. I guess that is true. I would say once a month or once every two months.

Q. And you have been doing that during the last five years?

MR. CORNEAU: Same objection.

A. Not regularly.

By MR. SEVERANCE:

Q. But on an average?

MR. CORNEAU: Same objection.

A. I would not say on an average.

By MR. SEVERANCE:

Q. How often have you been on an average?

A. I can't see that that affects the case in any way.

MR. BOLLING: Mr. Severance, I would take this witness to Philadelphia if he refuses to answer, as we have no power to compel him to do so, and the Commissioner or Examiner has no such power.

MR. SEVERANCE: I think I will get it out of him after a while. It will not look any better for him, the way his testimony will appear on the record.

MR. CORNEAU: I think counsel is trying to elicit confidential information concerning his company which has nothing to do with the case.

MR. SEVERANCE: You did not seem to regard the testimony that you elicited from other witnesses as confidential. For instance, you asked Mr. King all about Jones & Laughlin and other plants.

By MR. SEVERANCE:

Q. I have asked you to state on an average how often you visited the plant at Monessen.

A. I could not tell you how often.

MR. CORNEAU: Objected to as not proper cross examination.

By MR. SEVERANCE:

Q. Several times a year, have you not?

A. I would say several times a year, yes.

Q. Have these new buildings been under construction at the times when you went up there?

A. Some, yes.

Q. Having elicited from you the fact that you do remember eight open-hearth furnaces and a rod mill being constructed, are you able to tell any other new buildings or plants that have been built during five years?

A. No, sir.

Q. Think a moment, and perhaps you will think of some more.

MR. CORNEAU: Same objection.

A. Not any more to my knowledge.

By MR. SEVERANCE:

Q. That is final, is it?

A. Yes, sir.

Q. Now your business as traffic manager has to do with the rates and the handling of incoming and outgoing traffic, has it not?

A. Yes, sir.

Q. You say now that their tonnage is how many hundred thousand tons a year?

A. About 400,000 tons of steel ingots.

Q. Is that outbound?

A. Practically so.

Q. How much is it inbound?

A. I could not tell you.

Q. Is that immediately in your department?

A. I did not work it up, no, sir.

Q. That is a subject that you are immediately connected with?

A. Yes.

Q. Can you give us any estimate——

A. (Interrupting) I could not tell you, no.

Q. You could not tell whether it is a million tons or 500,000 tons or 250,000 tons?

A. I would not want to guess.

Q. You would not want to guess at something that is in your immediate charge?

MR. CORNEAU: This is objected to as not proper cross examination.

A. No, sir.

MR. CORNEAU: He did not say the shipments were in his immediate charge, but the matter of rates on shipments.

By MR. SEVERANCE:

Q. The 400,000 tons you have testified about are outbound shipments?

A. Practically so; yes, sir.

Q. Do you think you would get in as much tonnage as you ship out?

A. I imagine more.

Q. I should think likely you would. Your tonnage is at least 800,000 tons, is it not?

A. I would not guess at it——

Q. You say that it would be that much, do you not——

A. I would not like to make any statement about it.

Q. You would be willing to say that you could estimate it to the extent of this; that your inbound must be as great as your outbound, if not greater?

A. Oh, yes; I would make that statement.

Q. How much was your outbound tonnage five years ago, when you first became connected with the company?

MR. CORNEAU: Objected to as immaterial, incompetent and not proper cross examination.

By MR. SEVERANCE:

Q. (Continuing) Give us your best judgment.

A. I haven't any idea.

MR. CORNEAU: The same objection.

By MR. SEVERANCE:

Q. You have no idea?

A. No, sir.

Q. About the amount of the tonnage that was in your charge, and that you were routing—did you mean that?

A. Yes.

MR. CORNEAU: I object to that. I wish you would give me an opportunity to object.

MR. SEVERANCE: I thought you had made your objection.

MR. CORNEAU: No. That is not warranted by anything that has been said, and I object to it.

By MR. SEVERANCE:

Q. Were you paid a salary there by that company?

A. A slight one; yes, sir.

Q. Five years ago, were you paid a salary?

MR. CORNEAU: Objected to as incompetent, improper and immaterial, and not proper cross examination.

By MR. SEVERANCE:

Q. Were you paid a salary five years ago, at the time you were ignorant about what was going on?

A. I believe I was, a slight one, yes.

Q. When did you file your complaint against the ore rate?

A. In January this year.

Q. Had you ever filed a complaint with the Interstate Commerce Commission before?

A. On ore rates?

Q. Yes.

A. No, sir.

Q. What is the rate on coal into your plant?

A. I think it is about ten cents a ton, or in that neighborhood.

Q. Is that uniform from all sources of supply?

A. Not necessarily; no, sir.

Q. Between what figures does that run?

A. That depends on the distance.

Q. Well, I am asking you what is your lowest coal rate and what is your highest?

A. We endeavor all the time to get our coal from the lowest rate points. If we cannot get it there, we are compelled to pay the next rate.

Q. That is not what I am asking you. I ask you to tell me the minimum rate upon which you ship coal into the plant, and what is the maximum rate you pay on coal into the plant?

A. I would say the minimum would be about 10 cents and the maximum would be 50 cents a ton.

Q. You say that 10 cents is your minimum?

A. Yes, sir.

Q. You get nothing at less than 10 cents a ton?

A. No, sir.

Q. Does the bulk of your coal come in on that rate?

A. I would say a great portion of it does.

Q. What other incoming tonnage do you have—do you have pig iron?

A. Yes, sir.

Q. From what points do you ship your pig iron?

A. Various places. It depends altogether on where you buy it.

Q. That is a very general answer. Tell me what points there are from which you secure your pig iron?

A. The valleys, principally.

Q. Do you buy any in the Pittsburgh District?

A. Not to my knowledge; no, sir.

Q. What rate do you pay from the valleys to your plant on pig iron?

A. 90 cents a ton.

Q. That is the uniform rate from all places in the valleys, is it not?

A. Yes, sir.

Q. What other inbound tonnage do you have?

A. We have limestone and dolomite.

Q. Where do you get your limestone?

A. At the present time, you mean?

Q. Yes.

A. At Martinsburg, West Virginia.

Q. Where have you secured it at other times?

A. That is about the only place, I believe.

Q. What is your rate from Martinsburg, West Virginia?

A. 90 cents.

Q. What is the distance?

A. I cannot recall that distance.

Q. It is over 200 miles, is it not?

A. I would say it is; yes, sir.

Q. About 250 miles?

A. Close to that.

Q. 260 miles?

A. I do not believe so; no, sir.

Q. Where did you get your dolomite?

A. At the same place.

Q. What is the rate on that?

A. The same rate.

Q. Mr. Kennedy, do you know Mr. Orr?

A. Which Mr. Orr?

Q. Of the Pennsylvania Railroad.

A. Of the Pennsylvania Lines, you mean?

Q. Yes.

A. J. P. Orr?

Q. Yes.

A. Yes.

Q. He testified in your ore rate case, did he not?

A. I believe he did.

Q. You know he did, do you not?

A. Yes.

Q. You were present when he testified, were you not?

A. Yes, sir.

Q. I will ask you whether it is not a fact that at the hearing Mr. Orr gave the following testimony, and whether it is not also the fact that you or your company offered no testimony thereafter contradicting the same:

MR. CORNEAU: Before you read it, I might as well enter my objection. I object to it as incompetent, irrelevant and immaterial, improper cross examination, and as an improper way in which to get into this record what some witness said in some other record.

By MR. SEVERANCE:

Q. (Reading) "Mr. Orr: I have no knowledge of any conference for the purpose of considering these ore rates, or checking these ore rates, at which the Bessemer & Lake Erie Railroad, through Mr. Baird, their general freight agent, or through any of their executives, was either present or represented by any one else.

"Mr. Gordon: Did they ever take any part, to your knowledge, in the establishment of the rates?

"Mr. Orr: No, sir."

I will ask you whether it is not a fact that Mr. Orr gave that testimony, and that you, or the Pittsburgh Steel Company, thereafter offered no testimony contradicting the statement?

A. We have not had a chance, as yet. Mr. Orr is not through with the hearing.

By MR. SEVERANCE:

Q. Up to this date you have not offered any?

A. Not to this date; no sir. There has not been a chance. There has not been any hearing.

MR. CORNEAU: Can you give me a reference to the page to which you are referring, Mr. Severance?

MR. SEVERANCE: I have just got it on an abstract. I have not the page.

MR. CORNEAU: Very well.

By MR. SEVERANCE:

Q. Is your plant located along one of the rivers?

A. The Monongahela River, yes.

Q. Does your coal come in by rail or by boat?

A. It comes in by rail.

Q. Over what line?

A. The P. & L. E.

Q. Do they take it directly from the mines?

A. Yes, sir.

Q. The mines are located on their line?

A. Yes, sir.

Q. You spoke of the terminal railroad at Lorain.

A. Yes, sir.

Q. That is called the Lake Terminal, is it not?

A. Yes, sir.

Q. Have you been there?

A. Yes, sir.

Q. That starts from a point on the docks, along the river, comes up a hill and through a classification yard, and finally goes on over across the river to a connection with the Lake Shore or the Wheeling & Lake Erie, or goes back in the other direction in connection with the B. & O., does it not?

A. Yes, sir.

Q. And the haul on that ore is five or six miles, in the aggregate, is it not?

A. You mean, including all the switching and everything?

Q. I mean bringing it up and putting it through the yard, over the scales, and taking it to the connecting line.

A. I would not consider it that long; no, sir.

Q. You would not deny that if witnesses have testified to it, would you?

A. I would not deny it, no. I have been over the property itself.

MR. CORNEAU: Let me see if I understand your question, Mr. Severance. Are you asking for the length of the track itself, or the total movement over the track?

MR. SEVERANCE: The total movement.

MR. CORNEAU: I mean, if it goes two or three times over the same track.

MR. SEVERANCE: It does not do that.

MR. CORNEAU: I wanted to get it straight in my mind.

MR. SEVERANCE: I mean the movement. It goes over the scales and back, in one case, and in the other it goes right on.

MR. CORNEAU: You want the total distance, and not the length of the track over which it moves?

MR. SEVERANCE: I want the movement of the car.

MR. CORNEAU: I see.

By MR. SEVERANCE:

Q. And in making that movement that ore is elevated from the level of the tracks along the river, up to the plateau, about 55 feet, is it not?

A. I should say it is about that height; yes, sir.

Q. And there is a grade coming up, is there not?

A. Yes, sir.

Q. You say they get ten cents a ton for that service?

A. Yes, sir.

Q. Do they move ore there other than ore destined to plants of the Steel Corporation?

A. Not to my knowledge; no, sir.

Q. Those are the only docks at Lorain, are they not?

A. No, sir.

Q. What other road has docks there?

A. The Baltimore & Ohio.

Q. But it is the only connection at Lorain with the Lake Shore or the Wheeling & Lake Erie?

A. Yes, sir.

Q. The only connection with the lake, I mean?

A. Yes, at that particular point.

Q. That is what I mean—at Lorain.

A. Yes.

Q. What service is included in that ten cents?

A. That includes the movement from the time the car is loaded until it is delivered to the interchange track with the trunk lines.

Q. That includes the weighing of the car?

A. It is weighed when it is unloaded from the ship.

Q. Do you not know, as a matter of fact, Mr. Kennedy, that it is weighed after it is loaded on the car, at the track scales in the yard of the Lake Terminal?

A. It was not my impression, from the observation I made at that time.

Q. You would not dispute that, would you?

A. Well, I would, for the machinery they have. I dispute that, yes.

Q. You do dispute that?

A. Yes, sir.

Q. You are not aware of the fact that they have a very high priced automatic set of scales there up in the yard, on which every carload of the ore is weighed—both the loaded and the empty car?

A. That comes direct from the ship?

Q. Yes.

A. That is not my knowledge.

Q. On its way to the trunk lines?

A. That applies in connection with the dock ore; with indirect ore, so to speak.

Q. It applies to all of it?

A. Not to my knowledge; no, sir.

Q. You do not know?

A. I could not observe it to that extent.

Q. You would not undertake to deny that, of your own knowledge, would you?

A. No, sir, I would not. I am judging from the machinery installed at the port, that they have the same kind of machinery as the Pennsylvania have at Cleveland.

Q. You are arriving at your opinion from a course of reasoning, rather than from actual personal observation?

A. No; I made the observation.

Q. You made an observation of something down on the dock, but you made no observation of the movement of the cars up in the yard, to see whether or not they went over the scales and were weighed?

A. The particular cars from the boats, no. There were no cars that went over the scales, to my knowledge.

Q. You do not know whether they did or not?

A. I did not see them go over, and I was on the tracks right there.

Q. You did not see them?

A. The same identical cars.

Q. There are a good many tracks there?

A. Not so many over the scales.

Q. But there are a good many tracks in the yard?

A. There is a different lead to the scale.

Q. Do you know whether the ore cars are weighed on the scales before they go down to the dock?

A. They are; yes, sir.

Q. Do you know the point at which the Lake Terminal takes the cars from the Wheeling & Lake Erie, or its connection there?

A. The point at which they take the ore?

Q. Not the ore; the cars.

A. The point at which they take the cars from the Lake Terminal? That is the Lorain & West Virginia. It is operated by the Wheeling & Lake Erie, at a point near South Lorain.

Q. Across the river?

A. Yes.

Q. Is that the point to which the Lake Terminal goes with its own power after the empties?

A. Yes, sir; they are put in the yard you spoke of.

Q. They go there, to this yard, with their own power, and take the empties and run them into the scales and take them down to the dock and bring out the loads?

A. That is my observation.

Q. But you did not observe whether they weighed the loads when they got them up there?

A. Those particular loads, no, sir; they did not weigh the loads that I looked at.

Q. Did they not have to weigh those loads, to see whether the cars were over weight or full weight? Do they not trim the car?

A. They trim the car, yes; but that can be regulated very well by the scale——

Q. I am not asking you what could be done very well. I am asking you whether you know, of your own knowledge, what was the actual practice in those yards.

A. I only made two days' observation.

Q. And when was that?

A. Last year and this year.

Q. At what time this year?

A. In May. Last year, I think, it was in September.

Q. Take the Newburg & South Shore that you spoke of, at Cleveland. You said they get ten cents?

A. Yes.

Q. And they deliver ore from what dock?

A. The American Steel & Wire docks.

Q. The American Steel & Wire Docks at Cleveland?

A. Yes, sir.

Q. Is that ore that they take over the docks, if you know, destined to other parties as well as to plants of the Steel Corporation?

A. Not to my knowledge.

Q. Do you know anything about it?

A. The general impression I got was that it was all Steel Corporation ore.

Q. That was the general impression that you got?

A. Yes.

Q. Would you undertake to state that it is not the fact that both at the Lake Terminal and the Newburg & South Shore there is handled ore over those docks, delivered to the trunk line, and destined to other points than the plants of the Steel Corporation?

A. I would not say that; no, sir.

Q. You do not know, do you?

A. No, sir.

Q. That is what I thought.

A. It would be the emergency cases, I imagine, if it was.

MR. SEVERANCE: I move to strike out that answer, as the witness' imagination. We are getting too much imagination as it is. I am trying to get a few facts.

MR. CORNEAU: Well, I think it is a part of his answer, properly.

By MR. SEVERANCE:

Q. The rate up at the upper lake ports in Minnesota includes the handling through the docks does it not?

A. Yes, sir.

Q. Those are very large and expensive constructions, are they not?

A. Yes, sir.

Q. The Missabe dock at Duluth is the largest ore dock in the world, is it not?

A. I believe it is; yes, sir. It is one of the largest, anyhow.

Q. The ore is classified at those docks, is it not?

A. It is classified before it comes to the docks, to my knowledge.

Q. It is kept separate; the different kinds of ore are kept separate in the docks, are they not?

A. Yes, sir; in bins.

Q. In the pockets in the dock?

A. Yes.

Q. And it is loaded separately, so as not to be mixed on the ship?

A. That is right.

Q. And this is all included in the rate, is it not?

A. Yes, sir.

Q. And the use of the facilities is included in the rate

A. Yes, sir.

Q. You spoke about a return movement to lake ports, of coal, coke and steel products. Do you happen to know whether there is a large or a small return movement of loaded ore cars over the Bessemer & Lake Erie?

A. I could not speak on that very authentically, no.

Q. You know there are some empties?

A. I know there are some empties going back.

Q. You know the bulk of the cars going back go back empty?

A. But they are stopped en route, a great many of them, for coal.

Q. Between here and Conneaut?

A. Yes, on the Bessemer & Lake Erie Road.

Q. Where are they stopped?

A. The big mine is up this side of Butler; just between the Allegheny River crossing of the Bessemer & Lake Erie and Butler.

Q. How far is that from Pittsburgh?

A. I judge it is about 18 or 19 miles.

Q. Would you undertake to testify that over five, or at the outside, ten per cent of the ore cars go back to Conneaut loaded with coal or anything else?

A. How much?

Q. Over five or ten per cent.

MR. CORNEAU: Do you mean arriving at Conneaut?

MR. SEVERANCE: I mean that go north, loaded.

MR. CORNEAU: As I understand, he has just made the distinction between those leaving Pittsburgh loaded and those picking up loads en route.

MR. SEVERANCE: I mean going to Conneaut.

THE WITNESS: I could not say whether they exceed that or not.

By MR. SEVERANCE:

Q. You do not know?

A. No, sir; I do not.

Q. What are the finished products manufactured by the Pittsburgh Steel Company?

MR. CORNEAU: I object to that as not cross examination, and as incompetent, irrelevant and immaterial.

THE WITNESS: They manufacture billets, nails, wire, wire fences, staples, cotton ties, hoop and band steel. I believe those are the general products.

By MR. SEVERANCE:

Q. Do you use your own billets, or do you sell billets?

A. We use practically all of our own billets. We sell some few.

Q. The intention is to manufacture your own billets, is it not, and use them up?

A. Yes, sir.

MR. SEVERANCE: I think that is all.

MR. CORNEAU: With your permission, Mr. Severance, we will defer the re-direct examination of Mr. Kennedy in order that we may hear Mr. Moore now.

MR. SEVERANCE: That is perfectly satisfactory.

HENRY R. MOORE,

a witness produced by and on behalf of the United States,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. CORNEAU:

Q. What is your full name, please?

A. Henry R. Moore.

Q. What is your business?

A. I am traffic manager of the Republic Iron & Steel Company, with home office at Youngstown, Ohio.

Q. How long have you held that position?

A. Since June, 1899.

Q. What was your occupation before that time?

A. I was general freight agent for the Cleveland, Canton & Southern Railroad, now a portion of the Wheeling & Lake Erie.

Q. And it ran from where to where?

A. It ran from Cleveland to Zanesville, with a branch from Canton to Sherodsville.

Q. How long were you general freight agent of that road?

A. From 1890 to 1899, I believe.

Q. Prior to that, had you had any railroad experience?

A. Prior to that I was city solicitor for the Lake Shore & Michigan Southern, with an office in Cleveland. That was from 1887 to 1890.

Q. In that position of city solicitor, were you required, in the course of your duties, to become familiar with rate matters?

A. Solicitation was based upon the naming of rates, yes, sir.

Q. In other words, it required some familiarity with rates in the district?

A. Yes, sir.

Q. As general freight agent, what, if anything, did you have to do with rate matters?

A. As general freight agent, I was the responsible party for the rates as published by the Cleveland, Canton & Southern Railroad.

Q. Did you directly have to do with the making of those rates?

A. Yes, sir.

Q. What are your duties as traffic manager of the Republic Iron & Steel Company? Just in a general way, I mean.

A. In a general way, they are to see that the rates on our products, shipments in and out, bear a proper relation to the rates in and out of other districts.

Q. Does or does not that line of work require you to come in contact with railroads and railroad men, and consult and confer upon rate matters?

A. It does, frequently.

Q. And does it require that you keep yourself familiar with the rates upon various commodities that your concern handles?

A. Quite generally, yes.

Q. While you were general freight agent of the railroad you have mentioned, did you have occasion to consider the various details of making rates?

A. In a limited way, yes. It was a small railroad.

Q. But it would require the same considerations to be

taken into account to make a rate on that road as on any other road, would it not?

A. Yes.

Q. And were you, at that time, more or less in contact with men engaged in the making of rates on other roads?

A. Yes.

Q. So that, I take it, you are pretty familiar with rate making on railroads; at least, in this vicinity, are you not?

A. I think so.

Q. And with rate conditions?

A. I think so.

Q. Mr. Moore, has your company pending a proceeding before the Interstate Commerce Commission with reference to rates on ore?

A. Yes, from Lake Erie ports to the Valleys District.

Q. Are there any other complainants besides your company?

A. There are sixteen others; seventeen in all.

Q. Who prepared that case for presentation to the Interstate Commerce Commission?

A. There are various steps in the preparation of the case. The costs were prepared by Mr. Muller, based upon data secured by personal observation of trained observers; but, in a general way, it was directed by our counsel and myself.

Q. I was going to ask you next to describe to us, briefly, the lines of investigation pursued in preparing that case.

MR. SEVERANCE: I object to that as immaterial. What is the purpose of this? Is it for the purpose of qualifying Mr. Moore?

MR. CORNEAU: It is for the purpose of qualifying him and showing that he has made an investigation, and the way in which he has investigated.

MR. SEVERANCE: For that purpose I have no objection; if it is merely to qualify Mr. Moore.

By MR. CORNEAU:

Q. You spoke, for instance, of having an investigation made of costs by Mr. Muller.

A. Yes.

Q. What other lines of investigation did you pursue?

A. We presented comparisons of the rates charged into the Valleys district, with rates charged in other districts on the same commodities.

Q. Did you make or have made any observations concerning the operating conditions on the different lines?

A. Necessarily that entered into it; but personally I did not make those observations.

Q. I said did you make or have made such observations.

A. We had them made; yes.

Q. I understood you to state a moment ago that Mr. Muller's analysis or division of accounts for the purpose of ascertaining costs was based to some extent on certain of these observations.

A. Yes, sir.

Q. Does the Steel Corporation operate furnaces which consume ore, in the district concerned in this complaint?

A. Yes, sir.

Q. Did it join in the complaint?

A. It is not a party to the complaint.

Q. Was it asked to become one?

A. Not by any one, so far as I know.

Q. Why was that?

MR. SEVERANCE: I object to that as incompetent and immaterial. It cannot make the slightest difference why they were not asked. They may not have liked the color of the eyes or the clothes of the Steel people.

MR. CORNEAU: I withdraw that.

By MR. CORNEAU:

Q. Can you state whether or not there is any reason why it would not be, in your judgment, to the advantage of the Steel Corporation to join in that?

MR. SEVERANCE: I object to that as incompetent and immaterial, no foundation being laid whatever, and it not being a question for expert testimony, and as asking for a conclusion or a speculation. The proper testimony would be to show the

facts and circumstances, and let the Court itself draw its deduction.

MR. CORNEAU: I will change it, then, and put it this way.

By MR. CORNEAU:

Q. Will you state whether or not there are any considerations which would make it to the interest of the Steel Corporation to maintain the present rate to Youngstown?

MR. SEVERANCE: I make the same objection. That is asking purely for a conclusion of the witness, and an opinion upon a matter that is not a subject for expert testimony. I object to it as incompetent and immaterial, and because no foundation is laid.

MR. CORNEAU: I think it is a subject of expert testimony.

(By request the stenographer repeated the pending question as follows:)

“Q. Will you state whether or not there are any considerations which would make it to the interest of the Steel Corporation to maintain the present rate to Youngstown?”

THE WITNESS: The same question was touched upon in the investigation; that is, in our presentation of our case before the Commission; and, at that time, I stated that in my opinion the Corporation would be willing, naturally, to stand a high rate on a portion of their business into the Valleys, based upon the handling of a large portion of its business into the Pittsburgh district over its own rails.

MR. SEVERANCE: I move to strike out the answer of the witness. It is clearly apparent from the answer that the matter is not one for expert testimony, and that we are merely given the benefit of an opinion by a gentleman who has not shown himself familiar with all of the circumstances.

MR. CORNEAU: I think the next question will relieve your mind on that.

By MR. CORNEAU:

Q. What bearing has the Youngstown rate on the Pittsburgh rate?

MR. SEVERANCE: I make the same objection.

THE WITNESS: They are inter-related.

By MR. CORNEAU:

Q. Just explain that a little.

A. I think dating from the 90's, given one rate it was always possible to figure exactly the other, in that the Pittsburgh rate was always twice the Valley's rate, plus the dock charge. In other words, if the rate to Pittsburgh was \$1.18, you deducted 20 cents for the dock charge at Lake Erie ports, and the quotient was 98 cents; and half of 98 was 49. Adding 20 cents to the 49 cents——

Q. Adding two cents, you mean, do you not?

A. (Continuing) Made the Youngstown rate 69 cents. So that any change in the one rate would naturally produce a like change in the other.

Q. State whether or not, in view of this inter-dependence of the rate——

MR. SEVERANCE: He has not said "inter-dependence"; he said "inter-relation."

By MR. CORNEAU:

Q. In view of this inter-relation of the rate, then, you did, in the course of your investigation of the Youngstown situation, make or have made an investigation with reference to the rates to the Pittsburgh district also?

A. Our investigation of the ore rate into the Valleys quite naturally led to an analysis of the rate structure into Pittsburgh, and a portion of our complaint with reference to the rates into the Valleys was based upon the conditions of the pending rate at Pittsburgh.

Q. Do you know, Mr. Moore, of any furnace point obtaining ore from Lake Erie ports and situated within 300 miles of Lake Erie ports, other than Pittsburgh, which takes as high a rate as Pittsburgh on ore?

A. Within 300 miles?

Q. Yes.

A. Well, possibly there are not. I do not know, but the Josephine, and some point like that, may have a less rate, but

there is no point within a like distance of Lake Erie that has as high a rate.

Q. You spoke, in one of your answers, a while ago, of the fact that the Corporation uses a smaller proportion of its ore, or a small proportion—I have forgotten exactly your language; anyhow, a proportion of its ore in the Youngstown district; can you tell me about what proportion of its ore is used there, of the pig iron produced there—roughly, of course?

MR. SEVERANCE: I do not want him to guess at it. He ought to be able to testify accurately, if at all. ,

A. I cannot give accurate data on that. It is easily figured on the furnace capacity of the corporations, outside of the valleys and in the valleys.

By MR. CORNEAU:

Q. Well, figure it in that way. About what percentage would you say?

MR. SEVERANCE: I object to a mere estimate, when it is perfectly easy to get the facts.

A. My best judgment would be that they have probably about 14 per cent. of their production in the valleys. That is exclusive of their operations south of the Ohio River.

By MR. CORNEAU:

Q. Mr. Moore, giving consideration to the facts ascertained by the investigation made by you and under your direction, as far as it was made under your direction, what is your opinion as to whether or not——

MR. SEVERANCE: Excuse me for interrupting, but I do not want to misunderstand Mr. Moore. I understand that 14 per cent. is based on the entire business of the company at Chicago and everywhere else?

THE WITNESS: Yes, sir.

MR. SEVERANCE: I object to that as not responsive, then.

MR. CORNEAU: Oh, yes it is.

MR. SEVERANCE: The question was asked as to the relation between the Pittsburgh consumption, as I understand it——

THE WITNESS: No. I answered that question in reference to general operations.

MR. SEVERANCE: Very well, if that is responsive.

MR. CORNEAU: I think it is. I think it was responsive to my question. I will ask the stenographer to read the pending question.

(The stenographer read as follows:)

“Q. Mr. Moore, giving consideration to the facts ascertained by the investigation made by you and under your direction, as far as it was made under your direction, what is your opinion as to whether or not——”

MR. CORNEAU (Continuing): the 96-cent rate on ore from lower Lake ports to Pittsburgh is excessive?

MR. SEVERANCE: Objected to as incompetent and irrelevant and immaterial. It is not relevant to any issue in this case.

A. Our investigation was, of course, wholly with reference to the reasonableness of a rate of 56 cents to the valleys. And, as I have stated, the two rates are largely interdependent, interrelated. We have claimed, and have endeavored to show, that the rate to the valleys was not a reasonable rate.

By MR. CORNEAU:

Q. Let me interrupt there a moment. Do you think it was too high or too low?

A. We thought the rate was too high.

Q. Go on.

A. And the same factors that would enter into the rate from the Lake to the valleys would enter into the rate from the Lake to Pittsburgh, in producing a rate which would be, in my opinion, greater than the cost that the service warrants.

Q. Can you state briefly the different factors that you take into account in getting at that?

MR. SEVERANCE: I make the same objection, that this is all irrelevant to the case.

A. We consider that traffic of the density that obtains between the Lake and the Valley and Pittsburgh Districts

warrants the application of a measure that shall be based upon the cost of the service plus a reasonable return for the capital invested, and the only other element is the element of risk, and that is nil on the traffic referred to.

By MR. CORNEAU:

Q. You spoke of the density of traffic as warranting the application of that principle. That means, then, that you have taken into consideration the density of traffic?

A. Yes sir.

Q. And how about operating conditions?

A. Naturally, in establishing a basis for cost, the operating conditions were taken into account.

Q. In operating expenses, do you include the item of maintenance or up-keep?

A. I rather think that those are included, but I would not say positively. The accountant has a method of taking certain primary accounts where the items of expense are readily ascertainable, and fixing the items that cannot be determined by the percentage that the operating ratio bears to the total, and that method was pursued in the exhibits which we filed in our case.

Q. By the way, what was the operating cost over the Bessemer & Lake Erie Railroad per ton of ore as figured, if it was figured?

MR. SEVERANCE: I object to that as incompetent and immaterial. Mr. Moore does not claim that he made these figures himself. We make the further objection that the whole inquiry is irrelevant to any issue in this case, and the testimony would be hearsay.

(Upon request the question was repeated by the stenographer as above recorded.)

MR. CORNEAU: I will withdraw that question.

By MR. CORNEAU:

Q. Do you know what the operating cost over the Bessemer & Lake Erie is on a ton of ore, to Pittsburgh?

MR. SEVERANCE: The same objection.

A. I know the figure that was ascertained by our accountant, yes.

By MR. CORNEAU:

Q. Did you or not collaborate in that work?

A. I did, to the extent that I directed that it should be done.

MR. SEVERANCE: Do you hear that? He says he collaborated to the extent that he directed that it be done. He did not make the figures.

By MR. CORNEAU:

Q. Were the figures submitted to you; did you go over them with the accountants?

A. Yes; the figures were submitted; that is true. We were anxious to establish for our satisfaction what the cost was, and to obtain that information we had certain things done, and when that result was obtained, it was submitted, and submitted by us as the best evidence we could give the Commission.

Q. Where did you get your base figures that you used, the figures on which the analysis was made?

MR. SEVERANCE: I object to that. The witness has stated that he did not make these analyses. They were made by the accountant, and it seems to me the only fair way, if you want this evidence, would be to produce the accountant, so that he could be cross examined.

MR. CORNEAU: We have told you that we intend to do that.

MR. SEVERANCE: Well, Mr. Moore does not add anything to it by saying that the figures were brought to him and he handed them to the Commission.

MR. CORNEAU: Yes; I think Mr. Moore probably knows where those figures came from, and I will ask him that.

MR. SEVERANCE: Objected to as incompetent, immaterial and irrelevant.

By MR. CORNEAU:

Q. I will ask you if you know upon what data the computations made by the accountant under your direction were made.

MR. SEVERANCE: The same objection.

A. The computation rests first upon personal observation of train movements. We supplied Mr. Muller with a competent man to make those observations.

By MR. CORNEAU:

Q. Then, if I may interrupt, he then had to have figures concerning the gross earnings and operating expenses and so on?

A. Yes sir.

Q. Where were those taken from

A. Those were taken, as I understand it, from the files of the Commission in Washington.

Q. The Interstate Commerce Commission?

A. Yes.

MR. SEVERANCE: That is what he understands; but he does not know.

THE WITNESS: I did not get them myself, no.

By MR. CORNEAU:

Q. Did you or not, from time to time, as the work was in progress, and before the case was presented, go over the matter with Mr. Muller and consult with him about it?

A. I did frequently, yes; not only with Mr. Muller, but with the field man, the man out in the field.

Q. Will you please state, Mr. Moore, what the figure arrived at for operating cost per ton was from Conneaut to Pittsburgh or North Bessemer as the case might be?

MR. SEVERANCE: I object to that for the same reasons. I appeal to my friend. The witness has said that he knows nothing of his own knowledge, and you can make the computations. He had a man in the field who ought to be here to be examined, if you want to prove this, and he had another man in the Interstate Commerce Commission who should be here for examination.

MR. CORNEAU: If I waive this will you say you will not be asking him what he knows about costs?

MR. SEVERANCE: It depends on whether you go into the matter of costs. I certainly shall not cross examine about costs if you do not go into it.

By MR. CORNEAU:

Q. Will you answer that last question?

A. What was the question?

(The question was repeated by the stenographer as follows):

“Q. Will you state, Mr. Moore, what the figure arrived at for operating cost per ton was from Conneaut to Pittsburgh or North Bessemer as the case might be?”

A. The figures as the the result of the investigation show 28.24 cents per ton of ore from Conneaut to North Bessemer.

Q. That is over the Bessemer & Lake Erie Road?

A. Yes sir.

Q. In the same connection was a similar investigation made with reference to rates on the D. M. & N. and the Duluth & Iron Range from the Minnesota Ranges to Lake Ports?

A. Yes sir. Mr. Muller submitted the result of an examination of costs on each of those roads. I do not remember the exact figures, but I think it was 24 or 25 cents.

MR. SEVERANCE: I move to strike out the answer. He has not been asked to state the figures.

By MR. CORNEAU:

Q. What figures were arrived at?

MR. SEVERANCE: I object to that as irrelevant, not only in this case, but in the case in which the figures were made up, as that involved only the rate from the lower Lake Erie ports to the Youngstown District; and, further, the witness shows it is merely hearsay. The figures were made up by another person and he knows nothing about them.

THE WITNESS: The cost ranged between 24 and 25 cents.

By MR. CORNEAU:

Q. Do you know what the rates are on those roads for the movement of ore?

MR. SEVERANCE: Is there any dispute about that?

MR. CORNEAU: I wanted to ask him if he knows.

A. The present rate is 60 cents a ton.

By MR. CORNEAU:

Q. What is your opinion as to whether or not that rate is an excessive rate for the service?

MR. SEVERANCE: Objected to as incompetent. No foundation has been laid for it and it is entirely irrelevant, and it does not appear that the witness knows anything about it except he has seen some figures made up as to cost. It does not appear that he has ever seen the roads, or knows anything about their cost or cost of operation, and there is clearly no foundation laid for the opinion.

By MR. CORNEAU:

Q. You may answer the question now.

A. We have felt that the rate is excessive, based upon the cost of the service, and its relation to its returns, and the returns on the investment.

Q. Have you, in addition to that, made some investigation or are you familiar with other rates for similar service, for instance in the Michigan ranges?

A. Well, we filed with the Commission our comparison of the rates from the Iron River District over the Northwestern to Escanaba of 40 cents, as that was comparable, we figured, to our Youngstown operation, particularly.

Q. Are you somewhat familiar with the density of traffic over these other roads as compared with the traffic on the Duluth, Missabe & Northern?

A. I do not know the exact volume of business except I know in a general way that the Missabe Roads greatly exceed the traffic on the Northwestern.

Q. In other words, what I am trying to get at is whether or not the scope of your investigation has covered practically the same grounds in the case of the Duluth, Missabe & Northern and the Duluth & Iron Range as in the case of the Youngstown rates?

A. Yes.

Q. And your opinion is made up as the result of all you

have learned, from your own knowledge, or the investigation under your direction?

MR. SEVERANCE: Same objection. It is irrelevant.

A. Yes.

By MR. CORNEAU:

Q. You testified, I believe you said, in this case of yours before the Interstate Commerce Commission?

My recollection is that you there testified that a request for the reduction of rates was presented by the parties complainant before the Commission to the different railroads. Is that the fact?

A. Yes.

MR. SEVERANCE: It seems to me that is leading and irrelevant to any issue in this case.

By MR. CORNEAU:

Q. Now I will ask you if at that time you testified that this request was presented to the railroads involved.

MR. LINDABURY: That is leading.

By MR. CORNEAU:

Q. Was or was not a request presented to the railroads involved for a reduction in the rate?

A. There was.

MR. SEVERANCE: I object to that as irrelevant to any issue in this case.

By MR. CORNEAU:

Q. How was that presented?

MR. SEVERANCE: Same objection.

A. We asked Mr. Wood, as one of the leading executives of the Eastern Ohio and Western Pennsylvania Association of Ore-Carrying and Coke-Carrying Railroads to call a meeting of his committee.

By MR. CORNEAU:

Q. And was there such meeting?

A. There was.

Q. Who went there in behalf of the interests that you were representing before the Commission?

A. Mr. Wood attended the meeting; also Mr. McCabe; I will say representatives of the Pennsylvania Railroad, the New York Central—

Q. You misunderstood me, I think. I asked you who went in behalf of the furnace men?

A. A committee appointed by the furnace people.

Q. Were you on that committee?

A. I was on that committee.

Q. Then you attended the meeting?

A. Yes, sir.

Q. And presented the request?

A. Yes, sir.

Q. What railroads or what gentlemen were represented?

A. The Pennsylvania Lines, the New York Central Lines, the Erie, the B. & O. Railroad, the Lehigh Valley, the Bessemer & Lake Erie.

Q. Who represented the Bessemer & Lake Erie?

A. Mr. Baird.

Q. Do you know what his position is?

A. General Freight Agent.

Q. After you had presented your request, what occurred?

A. A general discussion on business conditions, and after an interview and discussion of two or three hours we were told that our railroad friends would take the matter under consideration and confer with each other on the subject and give us an answer later, which they did.

Q. Do you know whether or not the meeting continued after you withdrew from the immediate room where it was being held?

A. I am not clear on that. I do not remember now positively whether it was a full adjournment or not.

Q. I take it you do not recall whether the meeting broke up at that time?

A. I do not remember positively whether the railroad peo-

ple remained in session after we left or not. I am not entirely clear on that.

Q. Has your company, Mr. Moore, any mines which are located exclusively on the Duluth, Missabe & Northern Railroad or the Duluth & Iron Range Railroad, or which are bound by contract to ship over either of those roads?

A. We have a number of mines on the Duluth and Iron Range.

Q. Are these mines that you speak of as being located on the Duluth & Iron Range located on that road exclusively?

A. Yes, sir; my recollection is that we are confined to shipment by the Duluth & Iron Range.

Q. Can you tell me what percentage of your ore you ship either over the Duluth, Missabe & Northern or the Duluth & Iron Range?

A. Our schedule for the present season, the season of 1912, provides for about 53 per cent of the total tonnage from our own mines via the Duluth & Iron Range; the other 47 per cent is from mines on the Great Northern.

Q. To the extent to which you have to or do ship your ore over the corporation road, what is the advantage, if any, that the corporation has over your company in the cost of producing a ton of pig iron?

A. You mean in reference to the movement to the upper Lake ports?

Q. To the upper Lake ports.

A. Yes.

MR. SEVERANCE: Objected to, as the witness has not shown himself qualified to give an opinion as to what the proper rate should be to the upper Lake ports. Therefore it is a mere speculation.

A. (Continued) We paid 60 cents a ton for transportation; for two tons of ore to make a ton of pig iron we pay \$1.20. The Corporation pays the cost plus a reasonable profit on the investment.

By MR. CORNEAU:

Q. And that cost was something like 24 cents or 25 cents, as you testified a moment ago?

MR. SEVERANCE: No, he did not testify to that. He testified that somebody made up some figures that showed that.

MR. CORNEAU: Well, those are the figures that he gave. Is not that true?

THE WITNESS: Yes.

MR. SEVERANCE: He does not know anything about the figures and does not pretend to.

MR. LINDABURY: He does not know what the figures were except as he has been given them by somebody else.

MR. SEVERANCE: No, and he does not know how they are made up. He is perfectly frank about it. He does not claim to know anything about it.

By MR. CORNEAU:

Q. Assuming that this 24 cents or 25 cents—we will say 25 cents—is the actual cost to the Corporation, you pay \$1.20, as I understand you, on your two tons?

A. Yes.

Q. It would then cost the Corporation how much to transport your two tons?

MR. SEVERANCE: I object to that——

A. Fifty cents.

By MR. CORNEAU:

Q. That would leave 70 cents you have paid in which could be applied to transporting the Corporation's ore, could it not?

MR. SEVERANCE: Oh, no, he did not say that. The Witness was fairer than the counsel seems to be——

MR. CORNEAU: Not at all——

MR. SEVERANCE: The witness admitted that the corporation was not obliged to furnish that railroad transportation for nothing, that they are entitled to some interest on their plant, and you are eliminating that.

MR. CORNEAU: Oh, no, I am talking about cost.

MR. SEVERANCE: No; you are talking about the cost of

transporting ore and I am talking about the cost of transporting their ore.

MR. CORNEAU: He says that to cover the cost of transporting a ton of ore——

MR. LINDABURY: You made a misstatement that might mislead the witness, that there would be seventy cents left.

By MR. CORNEAU:

Q. Will you figure it out and see how much would be left to them after paying the cost of transporting your ore?

MR. SEVERANCE: I object to that as the witness has not shown that he knows anything about the interest on the cost, which he says is a necessary element.

(Upon request the stenographer repeated the pending question as recorded.)

MR. SEVERANCE: That is objected to as meaningless and as incompetent and because there has been no foundation laid for it.

By MR. CORNEAU:

Q. Have you any trouble in understanding it?

A. I think I know what you mean. Assuming that the cost is 25 cents, \$1.20 paid by us transports the four tons of ore and leaves them a margin of 20 cents.

Q. So that you would be out of pocket \$1.20, and the Corporation in pocket 20 cents, leaving out of consideration profits on the transaction?

MR. SEVERANCE: Just a moment. That is not right at all.

MR. LINDABURY: Let him answer the question.

MR. SEVERANCE: It is hearsay and not a correct statement of what the witness has said.

(Upon the request the question was repeated by the stenographer as above recorded.)

A. Treating it as a plant facility for the two interests, yes, that would be the answer.

By MR. CORNEAU :

Q. I do not understand just what you mean by treating it as a plant facility for the two interests.

A. I mean that if 25 cents is the cost, exclusive of the profit for the operation of the railroad, then it would be a plant facility, the same as a terminal railroad.

Q. In other words, you are treating the Missabe & Northern in that connection merely as a plant facility? You mean whatever profits it makes out of that, are profits in the whole operation of the business?

A. Yes, sir.

MR. SEVERANCE: I object to that as leading and not at all what the witness testified to.

By MR. CORNEAU :

Q. Let us make an assumption as to what will be a reasonable rate? Assuming, Mr. Moore, that prior to last November, when the rate was 80 cents, a rate of 40 cents would cover the cost plus a reasonable profit on the investment, or a reasonable return on the investment, and assuming that your company ships two tons of ore over the Duluth & Iron Range and the Steel Corporation ships two tons of ore over the Duluth & Iron Range, what advantage would the Steel Corporation have over your company in that transaction?

MR. SEVERANCE: Objected to as incompetent and immaterial and purely speculative, and irrelevant to any issue in this case, and as not founded upon any testimony.

A. We would pay on two tons of ore \$1.60. They transport four tons of ore, at the assumed reasonable rate of 40 cents, or \$1.60; so we would have paid for the transportation of their two tons of ore at a reasonable rate of 40 cents——

By MR. CORNEAU :

Q. In other words, it would have cost you \$1.60 and would have cost them nothing?

A. Correct.

Q. Assume the case of a competitor in the Pittsburgh District and the Corporation shipping over its own line, the Bessemer & Lake Erie, to Pittsburgh, and the competitor

shipping over some trunk line; what would the additional advantage be to the Corporation, leaving out the idea of reasonable profit, based upon the figure you have given us of actual cost.

MR. SEVERANCE: Objected to on the same grounds, and because it is irrelevant.

A. If an independent, receiving two tons of ore over the trunk line, pays 96 cents a ton, his out of pocket amount is \$1.92. The corporation, with a cost, that is, operating cost, of 28.24 cents would pay 57 cents, and they would have the advantage of the difference between 57 cents and \$1.92, which would be \$1.35.

By MR. CORNEAU:

Q. That would be the gross advantage, and the amount, whatever it is, that is above the reasonable profit, would be the net advantage?

A. Yes, sir.

MR. LINDABURY: Is this an examination in mathematics?

MR. CORNEAU: There seemed to be a good deal of difficulty on the part of you gentlemen as to just how those figures worked out, and I tried to clear it up.

By MR. CORNEAU:

Q. Now, Mr. Moore, will you state your opinion as to whether or not the advantage of the corporation in the matter of transportation would be sufficient to enable it to put its competitors out of business?

MR. SEVERANCE: I object to that as incompetent and immaterial. The witness has not shown that he has the slightest knowledge of manufacturing costs or the extent of the business conducted by the Corporation or by its competitors. Surely my friend will not ask this witness to give a speculative answer on such a question as that. I do not believe it of him.

MR. LINDABURY: He is not an expert on that.

MR. SEVERANCE: He is not an expert on that or anything unless possibly railroad tariffs.

By MR. CORNEAU:

Q. Now answer the question, please.

A. Well, I would have to premise that somewhat. Assuming that——

MR. SEVERANCE: (Interposing). I beg your pardon, but I object to Mr. Moore making any assumptions. He was not asked to make any assumption; he was asked a specific question, to which we have objected. If he is going to make assumptions that is another matter, to which we want to have an opportunity of objecting.

MR. CORNEAU: Well, you can move to strike it out.

By MR. CORNEAU:

Q. Go ahead and answer the question.

A. Assuming that we are on a parity as to raw materials, I would say that we are able to compete except in the item of transportation.

MR. LINDABURY: That is, that is the only difference.

MR. SEVERANCE: The only disadvantage.

THE WITNESS: Outside the question of natural advantages and raw materials.

MR. SEVERANCE: Your only handicap is transportation, as I understand your answer.

MR. CORNEAU: No, he says assuming——

THE WITNESS: (Interrupting). I said assuming that we are on a parity in the matter of raw materials——

MR. SEVERANCE: That you do not express any opinion on.

THE WITNESS: That is beyond my province.

By MR. CORNEAU:

Q. On the same assumption, do you think any competitor could stand up against the difference in transportation?

MR. SEVERANCE: I object to that as incompetent. Mr. Moore is not an expert on the manufacturing business and does not claim to be, and the question is not one for expert testimony. It is purely speculative.

MR. LINDABURY: Is he a manufacturer?

MR. SEVERANCE: No.

MR. REED: And it is further objected to because it involves a knowledge of the resources of the competitors of the Steel Corporation and the resources of the Corporation, and Mr. Moore is not shown to have any knowledge of the resources of the Corporation or its competitors.

MR. LINDABURY: And, further, it involves knowledge of the cost of production all along the line, not merely transportation cost, and the witness assumed to know only as to transportation costs.

MR. SEVERANCE: I think I have included that in my objection.

By MR. CORNEAU:

Q. Will you answer the question. The question is—

A. I remember the question all right. It is a self-evident proposition to my mind viewing it from the transportation standpoint, that assuming that costs—that is, that raw materials and costs are equal—that in a period of stress they would all go to the wall if they had to compete against the transportation advantages.

MR. CORNEAU: That is all.

CROSS EXAMINATION,

By MR. SEVERANCE:

Q. You have never been engaged in manufacturing, have you?

A. No, sir; I am not a manufacturer.

Q. You do not know anything about what it costs to make a ton of pig iron?

A. I would not attempt to tell you.

Q. You are not an expert on that?

A. No.

Q. How long have you been with the Republic Iron & Steel Company?

A. Since it was formed.

Q. When was that?

A. In 1899.

Q. Have you been traffic manager all that time?

A. Yes, sir.

Q. How does its size at present compare with its size in April, 1901?

MR. CORNEAU: Objected to as not proper cross examination and as irrelevant, immaterial and incompetent.

MR. SEVERANCE: I mean in the extent of its output.

THE WITNESS: About the same.

By MR. SEVERANCE:

Q. Just about the same?

A. Yes.

Q. It has not increased?

MR. CORNEAU: The same objection.

A. It has gone through a complete revolution from iron to steel.

By MR. LINDABURY:

Q. Within what time?

A. Within that period.

Q. What period is that?

A. From 1899 up to the present time.

MR. SEVERANCE: No, from 1901.

By MR. SEVERANCE:

Q. When did you become a steel plant?

MR. CORNEAU: The same objection.

A. Along in 1904, I think.

By MR. SEVERANCE:

Q. What is your output now compared with your output in 1904, when you first manufactured steel?

A. Much larger; the steel has been a steady growth.

Q. In spite of this transportation handicap you have talked about the Republic Iron & Steel Company has had a steady growth?

A. Yes, in spite of it.

Q. In spite of it?

A. In spite of it.

Q. And you are the owner of some mines, you say, on the Iron Range or the Missabe Railroad?

A. On the Iron Range Railroad.

Q. What are the names of your mines?

A. I could not tell you.

Q. Have you ever been there?

A. I have been there; yes, sir.

Q. You do not know the names of the mines, though, you say?

A. I do not know, no.

Q. You have not been there?

A. I have been there, but I have not been there so as to be able to give you—

Q. (Interposing) How lately have you been there?

A. I think I have not been there since the summer of 1905.

Q. 1905. Well, you do not know anything about the extension of the ore docks there since 1905, then, do you?

A. No, sir.

Q. Nor the sums that have been invested in the road since then?

A. No, sir.

Q. You do not know anything about the weight of the rail on that road?

A. No, sir.

Q. You do not know anything about the expensive or inexpensive character of the construction?

A. No; I would size that all up with reference to their operating reports as shown by operating men.

Q. I understand, and I am trying to find out what you know as to what you have testified here. You do not know anything about the Iron Range Railroad except that it can be found at a certain place on the map, and that it serves certain mines in which your company is interested?

A. Yes, that is all.

Q. If, as a prerequisite to giving an opinion on the reasonableness of a rate it was essential to know any of those facts, you would not be able to give an opinion, would you? I

am making an assumption. You are assuming that it is necessary to have those facts at hand?

A. We arrived at the facts as best we could from reports.

Q. I am asking you whether if, as a matter of fact, it is a necessary prerequisite to an opinion upon the reasonableness of a rate to know the cost of a property and the nature and character of the service performed, you are in a position to give an opinion as to the reasonableness of the Missabe rate?

A. Not if you use my individual knowledge.

Q. The Iron Range rates, I mean, not the Missabe.

A. Not if you base it upon what I personally know; no, sir.

Q. You could not give any opinion, no. You spoke, at the conclusion of your testimony, about the advantage possessed by means of transportation, and you gave it as your opinion that in a period of stress the Steel Corporation could put all its competitors out of business?

A. Yes, sir.

Q. You do not recall that the Republic Iron & Steel Company was put out of business in the stress of the panic of 1907, do you?

A. No, sir.

Q. You do not recall that it has been put out of business at any time, do you?

A. No, sir.

Q. You do recall, do you not, that the Republic Iron & Steel Company itself initiated the largest reduction that was made by any company a year ago in the price of steel?

A. Yes.

Q. And that it brought down prices all around?

A. That is true.

Q. You felt that you were strong enough to do that in spite of this handicap, did you not?

A. I presume we did.

Q. And you survived that?

A. So far, yes.

Q. How much was the reduction you made in the price of steel at that time?

A. \$3 a ton, according to my recollection.

Q. How much of this excessive transportation cost on the Missabe is included in the cost of a ton of steel? Figure that out for me, please?

A. That gets into the manufacturing end. I would assume that it is three tons of ore to a ton of steel. Now, that is merely an assumption on my part; I do not know that that is right.

Q. Assuming that you are correct in your statement that 25 cents was the cost of moving a ton of ore down to the Lake, for you up there, and that at that time they were getting 80 cents, then, leaving out of consideration the question of the cost of the property involved in the movement and maintenance charges and everything of that kind, there was a profit of 55 cents a ton on the three tons, and that would be \$1.65, would it not?

A. Yes.

Q. That is your handicap?

A. Part of it.

Q. So far as that was concerned up there that was your handicap?

A. Yes.

Q. Then, take it down on this end; what was your handicap on the three tons of ore from the Lakes to the Youngstown District; how much are you asking to have your rates reduced?

A. We have not asked any amount.

Q. How much did you testify they should be reduced?

A. I did not testify to that.

Q. How much that they ought to be reduced?

A. I did not say.

Q. What did you say?

A. I did not say; I left that entirely to the Commission.

Q. What do you pay now?

A. 56 cents.

Q. Do you think it should be reduced to 40 cents?

A. I am not going to say, Mr. Severance——

Q. I think you will answer my questions——

A. (Continuing)——what the rate should be, because we gave the Commission the best information we could give as to the conditions surrounding the movement of the traffic, and left the question of rates to the Commission.

Q. You left it to the Commission because you had to; but you are a witness here, and you have assumed to give testimony to the effect that those rates are too high. Now on cross examination I ask you how much too high they are. Is 56 cents too high?

A. It is too high to the extent that the cost of the service plus a reasonable return on that coal is less than 56 cents.

Q. I ask you to give me a specific answer to my specific question. How much should the rate be? You say the rate is too high. Now, you must know what you think the rate ought to be. How much do you say it ought to be?

A. I have never figured the rate for myself as to what the rate should be.

Q. You do not pretend to know whether it is too high, then, do you?

A. Yes, I do.

Q. How much too high is it?

A. To the extent that a reasonable profit based on the cost of service is less than 56 cents.

Q. Should the rate be 50 cents?

A. The question of profit comes in there.

Q. Do you know anything about it at all? Is your opinion worth anything? How much should the rate be? You say it is too high. How much too high?

A. I have not figured——

Q. (Interposing) You do not know, then, whether it is too high at all?

A. I can refer you to the exhibit on file.

Q. I am not asking you to refer me to any exhibits. You have testified that those rates are too high. Now I ask you,

on cross examination, how much too high they are, and I want an answer. How much too high is that 56 cent rate?

MR. CORNEAU: I object to the question.

MR. SEVERANCE: That question is proper cross examination.

By MR. SEVERANCE:

Q. How much too high is it?

A. I have not figured myself as to what that rate should be.

Q. Is 50 cents a fair rate?

MR. CORNEAU: He says he has not figured it.

A. Those questions are all useless. I tell you frankly that I have not figured it.

By MR. SEVERANCE:

Q. Then why did you assume to come in here and testify that the rate is too high?

A. Because I know what the cost is.

Q. What is the cost?

A. Seventeen cents on the loaded movement.

Q. It is?

A. Yes.

Q. How much should be added to that to get a fair rate?

A. I don't know. I do not profess to know. We have given the Commission the best information we have, and we say that we think the rate is too high.

Q. You have assumed to come in here and testify that the rate is too high?

A. Yes.

Q. Now, I ask you if 50 cents would be too high? What do you say to that?

A. You can go down the line of——

Q. (Interposing) I am proposing to conduct this examination——

A. You can conduct it, but I will not express an opinion as to what that rate should be because I have not fixed it in my own mind.

Q. You were very free, in answer to the counsel for the Government, to answer that 56 cents is too high. Now I am entitled to an answer to my question as to whether 50 cents is too high.

A. We have a complaint before the Government right now.

Q. Just answer my question——

A. (Continuing) In which we have attacked the 56 cent rate.

Q. It does not make any difference——

A. We have not, even before the Commission, intimated what we think the rate should be.

Q. That is quite immaterial to me, whether you have done that or not. You have testified as a partisan witness freely, and have volunteered, for the Government, that 56 cents is too high?

A. I did not volunteer that 56 cents is too high. You are putting words in my mouth that do not belong there.

Q. You have stated that 56 cents is too high?

A. I believe it is, yes.

Q. Is 50 cents too high?

A. I will not express an opinion.

Q. Is 45 cents too high?

A. I will not express an opinion.

Q. Is 40 cents too high?

MR. CORNEAU: I object to any further examination on this line.

THE WITNESS: I will not answer.

By MR. SEVERANCE:

Q. Is 35 cents too high?

A. You may go down to cost, if you like.

Q. Is 55 cents too high? I want an answer to that.

A. I will not answer it.

Q. You will not answer it?

A. No.

Q. You are a valuable expert.

A. I have given you a fair, frank and free answer as to what I think that rate should be.

Q. You have not given me any answer.

A. I have. I have said that it should be cost, plus a reasonable profit on the investment.

Q. That may be 56 cents, for all you know.

A. All right, it might be.

Q. Maybe 56 cents is not too high. Is that so? Perhaps that is all right.

A. If a reasonable profit makes it 56 cents, then 56 cents would be a reasonable rate.

Q. Then we are right around to this position, that you do not know anything about what a reasonable rate to that Valley district is. Is not that so?

A. I say I do.

Q. You do?

A. Yes.

Q. What is a reasonable rate?

A. Cost, plus a reasonable profit.

Q. How much is that?

A. That is for the Commission to say.

Q. Oh, no; it is for you. You are an expert. You are testifying as an expert.

A. I am not an expert.

Q. Certainly. You could not have given all this testimony except as an expert. Can you not see the curious position in which you leave yourself by—

MR. CORNEAU: I object to that.

MR. SEVERANCE: I will finish my question.

MR. CORNEAU: You have no right to make such a comment as that.

By MR. SEVERANCE:

Q. You have testified, for counsel for the Government, that 56 cents is too high. I ask you whether 50 cents or 55 cents is too high, and you will not answer. Is that your attitude?

A. That is. I will say—

Q. That is your attitude?

MR. CORNEAU: Let him explain.

THE WITNESS: Yes, it is.

By MR. SEVERANCE:

Q. Now, to go back: I was trying to find out how large the handicap was, but I could not do it. You had a handicap of 55 cents a ton, according to your assumption, not taking into account any profit or interest on the cost of the Iron Range Road. There is \$1.65 handicap. Having that handicap, you made a voluntary reduction of \$3.25, which is twice the handicap; and you did that of your own motion. You made that cut of \$3.25 of your own accord—the Republic Iron & Steel?

A. I presume so.

Q. And you did not “bust,” did you?

A. Not yet.

Q. You are still running?

A. Yes.

Q. Although you handicap yourself twice the extent you claim you are handicapped, even on your own figures?

A. Yes; that is our privilege.

Q. You stated, in answer to counsel, that the 96 cent rate to Pittsburgh was too high. How much is it too high?

A. I do not know.

Q. How do you know it is too high at all?

A. I said the two rates were inter-related, and we had complained of the Youngstown rate.

Q. Are you willing to come in here and testify under oath that the rate is too high, merely because you have complained of it, without having any other reason?

A. I have the same—

Q. Is that the only reason?

A. I have the same feature, of the element of cost on the Pittsburgh rate. The cost is 28.24 cents, and they charge 96 cents.

Q. What is a fair rate to Pittsburgh? How much less than 96 cents would be a fair rate?

A. As much more than 28.24 as a reasonable return on the investment would require.

Q. I ask you to give me a specific answer, as a railroad expert, because that is the capacity in which you are testifying,

as to what would be a fair and reasonable rate on ore from the lake ports to the Pittsburgh district.

A. I have not figured it.

Q. You do not know, do you?

A. No, I am not prepared to say. I would say it should not exceed the Wheeling rate, by comparison.

Q. What is the Wheeling rate?

A. Sixty cents.

Q. You think it should not exceed the Wheeling rate?

A. I say that I think it should not exceed the Wheeling rate by comparison.

Q. But that does not involve any consideration of the cost of the business?

A. That eliminates all the other items of cost and profit.

Q. Yes. Basing it wholly on comparison, you say that?

A. Yes.

Q. What is the cost of getting coal to the furnaces at Wheeling?

MR. CORNEAU: I object to that as incompetent and immaterial, and not proper cross examination.

THE WITNESS: The coal, I think, originates in the vicinity of Wheeling.

By MR. SEVERANCE:

Q. What is the cost of getting coke to the Wheeling furnaces?

A. \$1.35.

Q. What is the cost of getting it to the Pittsburgh furnaces?

A. Seventy-five cents.

Q. Really? What is the cost of getting limestone to the Wheeling district?

MR. CORNEAU: I make the same objection to all of these questions.

THE WITNESS: The limestone rate I do not remember, but I know what you are getting at. The costs are equalized on the assembling rate of the materials entering into the pig iron.

By MR. SEVERANCE:

Q. At the present rate?

A. At the present time. That is, they are said to be.

Q. I say, in the Youngstown district and the Pittsburgh district and the Wheeling district they are, are they not?

A. They are said to be.

Q. They are, are they not?

A. No.

Q. In what way are they not? Explain in what they are not equalized.

A. You are getting into a lot of things—

Q. You answer my questions. I will take care of that.

A. The Youngstown district pays 56 cents on ore. The Pittsburgh district, and if by that you mean the Corporation, is supposed to pay 96 cents; but they pay the cost, plus a reasonable profit.

Q. Wait a minute.

A. We are equalized on the assembling proposition, based upon a paper rate of 96 cents.

Q. Now, Mr. Moore, let us see about that. The Pittsburgh Steel Company is doing business in the Pittsburgh district, is it not?

A. Yes, sir.

Q. And they ship in some ore?

A. Yes, sir.

Q. They pay 96 cents?

A. Yes, sir.

Q. Jones & Laughlin are in this district, are they not?

A. Partly.

Q. Their plant here in the city is in this district?

A. Yes.

Q. And they pay 96 cents, less a switching charge?

A. Less a terminal allowance; yes, sir.

Q. We all understand that.

A. Yes.

Q. There are a number of people, aside from the ones I have mentioned, that are doing business in the Pittsburgh district that are not connected with the Steel Corporation?

A. That is true.

Q. And they are all paying this 96-cent rate?

A. Yes.

Q. Are they entitled to any consideration in making up rates or not? Do you think they are? Just answer that yes or no.

A. They are entitled to consideration; most decidedly.

Q. Thank you very much. This rate of 96 cents, as to those men, even on your own way of figuring, is not a paper rate, is it?

A. Not as to those people, no.

Q. And are they competitors of the Republic Iron & Steel Company?

A. Most assuredly.

Q. Assuming, then, that their charge is not a paper rate, which you say it is not, is the cost of assembling equalized as between them and you and the people in the Wheeling district?

A. As between——

Q. I am leaving the Corporation out of it, you understand.

A. You have included Jones & Laughlin in that proposition, and I say no.

Q. Because of the terminal allowance they get?

A. Because their coke rate is a paper rate.

Q. Their coke rate?

A. Yes.

Q. Where do they get their coke?

A. They get their coal by water, and coke the coal at their plant.

Q. Leave them out and put the others in, then.

A. They are our two big competitors.

Q. Will you have the goodness to answer the question? We will leave out Jones & Laughlin and the Steel Corporation, and as to the others you admit that the rates are not paper rates?

A. The others are infinitesimal.

Q. Is the Pittsburgh Steel Company infinitesimal?

A. So far as we are concerned, it is.

Q. However large or small they may be, if I could get you to answer my questions and not argue, would you say that the rates of assembling costs are equalized as between the Youngstown district and the Pittsburgh district and the Wheeling district?

A. They are equalized in the Wheeling district by making a distortion in the ore rate. The ore rate was \$1.18 at one time, the same as Pittsburgh. It is now 60 cents.

Q. I am not asking why and how it is done. I am asking if, as a matter of fact, it is done.

A. It is done, but in that way.

Q. It is done, so that whether one rate is too high or low, we are not considering now. We are merely considering the question as to whether, as between these people in the Pittsburgh district, who you say have to pay the rate, and the Youngstown district and the Wheeling district, the cost of assembling is equalized.

A. It is practically so, I think.

MR. CORNEAU: With the exceptions you have named?

THE WITNESS: Exactly.

By MR. SEVERANCE:

Q. Does all of the Steel Corporation's ore come over the Bessemer & Lake Erie?

A. I understand not. 75 per cent of it.

Q. Over what other lines does it come?

A. The Pennsylvania and the P. & L. E. and the Baltimore & Ohio.

Q. Is the rate a paper rate to them on business that goes over the trunk line?

A. No.

Q. If it is not a paper rate to them, then, as to that ore, there is an equalization among these three districts, is there not?

A. Exclusive of terminal allowances; yes.

Q. Every blast furnace here gets a terminal allowance of some sort, does it not?

A. In the Pittsburgh district, yes.

Q. Every blast furnace?

A. Yes.

Q. So that, if you should consider that, that takes that much off of the rate for everybody, does it not, who runs a blast furnace?

A. In the Pittsburgh district, yes.

Q. Your complaint as to ore rates was against what railroad companies?

A. It was against the Lake Shore.

Q. Alone?

..

A. The Lake Shore and the Pittsburgh & Lake Erie.

Q. The Pittsburgh & Lake Erie is a Vanderbilt line, is it not?

A. Yes.

Q. And the Lake Shore is, likewise?

A. Yes. It was afterwards amended to include the Pennsylvania, I believe.

Q. The Bessemer & Lake Erie road does not reach the Valley at all, does it?

A. I would say not.

Q. There is no ore comes over the Bessemer & Lake Erie to those plants up there in the Youngstown district, is there?

A. Not to my knowledge.

Q. No. Consequently, so far as that rate is concerned, it is not a rate in which the Bessemer & Lake Erie shares to any extent?

A. Not in the item of transportation.

Q. That is what I am talking about. We are talking about transportation. I am not going to examine you about anything but transportation, and not much about that. You have admitted that you are not a manufacturing expert.

You stated, did you not, something about the great advantage to the Corporation of keeping up the Pittsburgh rate, and that that even justified keeping up the Youngstown rate, if necessary to do that?

A. I think so.

Q. Can you tell me how much iron ore is shipped into the Youngstown district from the lake ports annually by the Steel Corporation?

A. I do not remember the exact figures, but I would say that the total in there is between ten and eleven millions, and that the Corporation probably have 47 to 48 per cent. of the total.

Q. In your opinion, then, it would be four or five million tons?

MR. CORNEAU: Do you mean total capacity or total shipments?

THE WITNESS: Total capacity.

By MR. SEVERANCE:

Q. How near the total capacity do they run?

A. The last few years that has varied.

Q. I understand it varies; but between what limits?

A. I presume from 50 to 60 per cent. up to 80 or 85 per cent. At present I think it is pretty nearly 100 per cent.

Q. You would not be surprised, then, if you were told that during the last year they shipped, in round figures, 4,000,000 tons into their furnaces in that district?

A. Not at all. I would not.

Q. And on that 4,000,000 tons the Steel Corporation paid the full rate of 56 cents, the same as everybody else?

A. I suppose they did.

Q. And if that rate is too high—on which we have no light, because you do not know—assuming it is too high, they are taxed to the extent of that excess, are they not, the same as everybody else?

A. To the extent that that tonnage bears to their total tonnage.

Q. I am not asking about their total tonnage. I am talking about the total tonnage of the district.

A. That is true.

Q. Their tonnage in the district?

A. Yes.

Q. If 56 cents is 20 cents too much, if the rate should be 36 cents instead of 56 cents, and they ship 4,000,000 tons, they are being taxed \$800,000 more than they should be?

A. That is self-evident.

Q. And if it is ten cents too high, they are paying \$400,000 more than they should?

A. Yes.

Q. There is no doubt about that?

A. Not at all.

Q. Do you happen to know how much ore the Steel Corporation furnaces consume in the Pittsburgh district?

A. I did know. I think about in the neighborhood of thirteen or fourteen million tons.

Q. Are you sure?

A. I think so.

Q. As much as that? Would you put it as high as that?

A. I am trying to recollect. I did know, but I have forgotten. It is a large amount, anyhow.

Q. It is quite some ore?

A. Yes.

Q. There is no doubt about that?

A. No.

Q. Now, Mr. Kennedy, an expert witness who has been on the stand today—did you hear his testimony?

A. Part of it.

Q. (Continuing) Testified that the furnace capacity of the Pittsburgh district; that is, the total furnace capacity, including Aliquippa, is 15,000,000 tons.

A. Yes.

Q. Does that correspond with your recollection?

A. I would have supposed that, including Aliquippa, it was in excess of that.

Q. If it was only 15,000,000 tons it is very clear that the Corporation's capacity is not 13,000,000 or 12,000,000 or anywhere near that?

A. I cannot tell you what the exact relation to the total is there, no, sir.

Q. Then you do not know, do you?

A. No, sir.

Q. You have stated, in answer to counsel, that you had somebody make up some figures on the cost of handling ore to North Bessemer.

A. Yes.

Q. And that was 28 and a fraction cents, 24- $\frac{1}{4}$ cents; and then you afterward stated that the profit or advantage enjoyed by the Corporation was the difference between 96 cents and that 28- $\frac{1}{4}$ cents?

A. Correct.

MR. CORNEAU: No; in my question I said eliminating the item of profit.

MR. SEVERANCE: All right; if you did. I do not remember whether you did or not?

By MR. SEVERANCE:

Q. North Bessemer is eight or ten miles from the furnaces, is it not?

A. You mean that the Union Railroad intervenes?

Q. That is what I mean.

A. Yes.

Q. And the Union Railroad is a very expensively constructed road, is it not?

A. So I have heard a great many times.

Q. You know it, do you not?

A. I would think so.

Q. And you know that the density of the traffic on the Union Railroad is such that it had to be a very well constructed road, to handle the business?

A. I think so, yes; as it is handled.

Q. You know, as a matter of fact, that the density of traffic on that road is very great, do you not?

A. I presume it is, yes; it must be.

Q. You know that, do you not, as much as you know any of these things?

A. As well as I know any of these things.

Q. You know that as well as you know anything about railroading?

A. Yes.

Q. Why do you say that the advantage of the Steel Cor-

poration consists of the total difference between the 28- $\frac{1}{4}$ cents, plus what Mr. Corneau said should be added, and the 96 cents, and leave out of consideration entirely the fact that the Union Railroad takes that traffic from North Bessemer and classifies it and hauls it across to Duquesne, a distance of seven or eight miles, hauls it down to the furnaces at Rankin, crossing the Monongahela River twice, and hauls it to the Edgar Thompson Works? Why do you eliminate that entirely? That is something that has to be done to make a delivery, is it not?

A. I do know that that is the cost to North Bessemer. The item of profit up to that point would be the difference between that and 70 cents; because there is 26 cents allowed from that point to make all these deliveries.

Q. That is what I am trying to get at. You said nothing about that 26 cents when you were testifying in answer to counsel for the Government. That is a small item that you omitted?

A. I beg your pardon. We got to figuring—

Q. But you did omit that?

A. The 96 cents can be divided into as many bites as you want, but it finally lands there.

Q. But it does not finally land there; because you testified, squarely, in answer to Mr. Corneau's question, that the Corporation's advantage consisted of the difference between the 96 cents and the 28 $\frac{1}{4}$ cents, plus the interest on the investment.

MR. CORNEAU: You just stated what he said.

THE WITNESS: I do not mean to pettyfog about the thing.

By MR. SEVERANCE:

Q. You also testified, in answer to counsel for the Government, that the 28 $\frac{1}{4}$ -cent rate included the cost to North Bessemer, and Mr. Kennedy testified to the same thing?

A. Yes.

Q. You admit that you must add a fair charge for taking the traffic from North Bessemer, classifying it and delivering it to the furnaces?

A. That is a part of the cost, yes.

Q. Then your former answer was not right, was it?

A. It needs to be amended to that extent.

Q. Of course it does. Up in the Valleys, where you have your plant, the railroads spot the cars for you, do they not?

A. Yes, they do; at their expense.

Q. At their own expense?

A. Yes.

Q. So that you get a delivery right at the furnace door?

A. Yes, sir.

Q. And that is included in your 56-cent rate?

A. That is right.

Q. You testified, in answer to counsel for the Government, that the furnace capacity of the Corporation in your Valley district was only 14 per cent of their production in the country north of the Ohio River?

A. I said I thought it was about that.

Q. What has that to do with this question? What has a comparison between the consumption of ore in the Valley and the entire consumption in the North, of the Corporation, to do with the question under consideration here?

MR. CORNEAU: You are arguing with him, now, about what was running in my mind.

MR. SEVERANCE: I want an answer to the question.

THE WITNESS: I mean that, taking the Valley as a district, with the 56-cent rate, the maintenance of the 56-cent rate into that district is contingent on the maintenance of the 96-cent rate into Pittsburgh; and with only 14 per cent of their total capacity in the Valleys, they can well afford to accept a penalty on 14 per cent, if, on a large per cent, they reap an advantage, and if their competitor takes the penalty on 100 per cent.

By MR. SEVERANCE:

Q. That is a fine speech, but it has nothing whatever to do with what I am asking you.

A. Yes, it has. It is just what you were asking me.

Q. No. I asked you what the 14 per cent has to do with

it. I will make it plainer to you. You say that the rates to Pittsburgh and to the Valley are inter-related?

A. That is correct.

Q. You do not say that the rate to Chicago, the switching rate around Chicago, has any relation to the Valley rate, do you?

A. No.

Q. You know that the ships unload right at the furnaces at Gary?

A. Yes.

Q. And at the Illinois Steel Company's plant?

A. Yes.

Q. A very large part of the 100 per cent of the capacity north of the Ohio River is at Chicago?

A. Yes, and—

Q. Wait a minute. That is so, is it not?

A. That is true.

Q. Then the comparison of the 14 per cent in the Valley with the entire capacity in the North, including all that capacity in Chicago, which has no relation whatever to your rates down here, is not of any value in this case, is it?

A. You are making me try our valley ore case here, which I do not want to do.

Q. I do not care what you want to do. I want you to answer my questions.

A. It has a great deal to do with it.

Q. Explain what.

A. I will.

MR. CORNEAU: He did.

MR. SEVERANCE: No, he has not.

THE WITNESS: Our Valley rate for the assembling of material to go into a ton of pig iron includes the transportation of coke, ore and limestone. We pay \$1.35 on coke to Youngstown, and the Corporation pays, on coke to South Chicago or to Gary—they did until recently—\$1.95; they have a terminal allowance of 40 cents, and there we ran against the same thing again, the terminal allowance; cars delivered identically as close to the plants at the point of consumption as

they are in our district, and our delivery is performed by the railroad.

By MR. SEVERANCE:

Q. What is that? Do you recollect that you are testifying now under oath and not arguing? Do you remember that, in connection with that last statement of yours?

(By request of counsel, the stenographer repeated the witness's last answer.)

MR. CORNEAU: You are talking about terminal railroads, as I understand it.

THE WITNESS: Yes. I am talking about terminal railroads.

MR. CORNEAU: And you do realize that you are under oath?

THE WITNESS: Yes.

MR. SEVERANCE: I do not know whether he does or not. I hope he does.

MR. CORNEAU: I thought he had that in mind. It was running in your mind that he was saying that Chicago was as near as Youngstown, I suppose.

By MR. SEVERANCE:

Q. Now you have left us entirely in the dark as to what the 14 per cent has to do with the question.

A. Because we come in competition with the ore that is produced at the lake front, and that 14 per cent that I refer to has reference to the total production of pig iron at the lake front and other territory.

Q. But the cost of laying down ore in Chicago, the cost of laying down ore in Lorain, the cost of laying down ore in Cleveland, has nothing whatever to do with the cost of laying down ore in Pittsburgh, has it?

A. It has not.

Q. There is no relation between those?

A. No; the railroads cannot control that.

Q. No; the railroads cannot control that. That brings us right to the direct point: You have said that the rates to the Valley Points and to Pittsburgh are inter-related?

A. Yes.

Q. Therefore, if you want to make the comparison which you have made here with your 14 per cent, the comparison you should make, if it is of any value at all, would be as between the quantity of the Steel Corporation's ore moving to the Youngstown district, the Valley district, and the quantity moving to Pittsburgh, would it not? And not as against the whole consumption all over the North?

A. I do not see it that way, myself.

Q. Very good.

A. I see if from my own standpoint, very clearly, and—

Q. All right.

MR. CORNEAU: Let him finish.

MR. SEVERANCE: That is all right; I understand. He does not agree with me. That is all.

MR. CORNEAU: I want to ask him about his answer back there, where he was interrupted.

MR. SEVERANCE: All right.

By MR. CORNEAU:

Q. There was an answer a little while back, where you were interrupted, and I would like to have you finish that, Mr. Moore. I refer to the point at which Mr. Severance asked you if you realized that you were under oath.

(By request, the stenographer read the answer of the witness referred to, as follows:)

“Our Valley rate for the assembling of material to go into a ton of pig iron includes the transportation of coke, ore and limestone. We pay \$1.35 on coke to Youngstown, and the Corporation pays, on coke to South Chicago or to Gary—they did until recently—\$1.95; they have a terminal allowance of 40 cents, and there we ran against the same thing again, the terminal allowance; cars delivered identically as close to the plants at the point of consumption as they are in our district, and our delivery is performed by the railroad.”

A. I presume that is a statement that is somewhat extravagant.

MR. SEVERANCE: I thought it was.

THE WITNESS: With reference to the Chicago situation it is not an extravagant statement based upon the ability of the trunk lines to make deliveries to these points, if these plants did not interpose, first, the Chicago, Lake Shore & Eastern, which was afterwards absorbed into the E. J. & E. The Baltimore & Ohio passes the site, and so does the Lake Shore and the Pennsylvania.

Q. They go right by the Gary plant?

A. Right by it, yes.

By MR. SEVERANCE:

Q. Then you withdraw the statement that you were making at the time that I called your attention to the fact that you were testifying and not arguing?

MR. CORNEAU: That is not it.

MR. SEVERANCE: That is what I did, exactly. I called his attention to the fact that he was under oath and that he was not arguing.

By MR. SEVERANCE:

Q. You withdraw your statement that you made there with reference to your rates alongside of the plant being the same in your district?

A. Yes, to that extent.

Q. Then I accomplished, by my suggestion, all that I wanted, and got you down to the facts.

You spoke of that meeting that you asked Mr. Wood to call previous to the beginning of this proceeding, and you mentioned the fact that you were present at this meeting, and representatives of the Pennsylvania Lines, the New York Central, the Baltimore & Ohio, the Lehigh Valley, and Mr. Baird, of the Bessemer & Lake Erie. Who represented the Pennsylvania Lines at that meeting?

A. Mr. Joseph Wood was there, and Mr. McCabe, the vice-president.

Q. What is Mr. Wood's position?

A. He is the president of the Pennsylvania Lines West, now.

Q. Who represented the New York Central Lines?

A. Mr. C. F. Daly was there, and Mr. W. A. Terry.

Q. He is a western man, is he not?

A. Yes.

Q. Was anybody else there?

A. I do not remember whether they had other representatives there or not.

Q. Who represented the Baltimore & Ohio?

A. Mr. George Randolph.

Q. What is his position?

A. He is vice-president.

Q. Who else?

A. Mr. C. S. Wight.

Q. What is his position?

A. Freight traffic manager.

Q. Who represented the Lehigh Valley?

A. I think Mr. Blood was there. I would not be positive as to that. I do not know the gentleman.

Q. Anyone else?

A. The Erie were represented by their freight traffic manager, whom I know very well, but whose name escapes me just at the moment.

Q. Very well. He was the freight traffic manager. That is sufficient.

What other men were there? Was the Lackawanna represented?

A. I do not remember.

Q. Do you remember any other line that was represented?

A. I think not.

Q. You have stated that Mr. Baird was there. Did Mr. Baird have anything to say about what these rates should be, as to whether there should be a reduction or not?

A. I do not think he did.

Q. You are aware of the fact, are you not, that Mr. Wood and Mr. Orr have both testified that Mr. Baird has never had anything to do with the establishment or maintenance of ore rates? You are informed of that fact, are you not?

A. I think I have heard that, yes.

Q. And you know of nothing, do you, to induce you to con-

tradict the statement made by those gentlemen under oath to that effect?

A. I would not contradict them.

Q. How long after that meeting that you had did you receive notice from the trunk lines that they would not make the reduction?

A. I think it was about thirty days.

Q. You do not know at what meeting, held by the representatives of the trunk lines, that matter was determined, do you?

A. No, sir. We were simply advised that they had discussed the matter, and decided that there could be no reductions made.

RE-DIRECT EXAMINATION.

By MR. CORNEAU:

Q. Did Mr. Orr or Mr. Wood testify in the Youngstown case?

A. We have had no testimony on the part of the railroads in our ore case as yet.

Q. Then this testimony that Mr. Severance was talking about, in which they were supposed to have said that the Bessemer & Lake Erie were not making the ore rates was in some other case?

A. Some other case; not in our case.

Q. Do you know whether or not they were speaking in reference to the rate on ore to Youngstown, or in reference to the rate on ore to some other point?

A. I do not know the language of the denial at all.

Q. In other words, it is something entirely outside of your ken, outside of your knowledge?

A. Other than the mere fact that I have heard that they have denied it.

Q. Did you ever hear that they said they had nothing to do with the making of rates to Youngstown as distinguished from Pittsburgh?

A. I can only assume that when railroad people meet by

request and bring in the interested lines, that the interested lines are there only by invitation.

MR. SEVERANCE: I move to strike out the answer as purely speculation. The witness knows nothing about the matter, as he admits. He simply shows his bias as a witness.

By MR. CORNEAU:

Q. Now, Mr. Moore, Mr. Severance asked you with reference to the extent to which the Steel Corporation would have an advantage over its competitors on a ton of steel. Assuming that the advantage, for the purpose of the question, was the difference between the cost figure of 25 cents and the old rate of 80 cents, and the amount of ore three tons, he put to you the question whether the advantage of the corporation on that assumption was \$1.65 or something of that kind, and you replied in the affirmative. I wish you would please figure and see if that is right.

A. Well, it is \$1.65 on their particular shipment. Of course that has to be doubled with reference to the competitors, the ore handled for the competitors.

Q. Yes; the advantage would be just twice that?

A. Yes; it would be \$3.10 on the double transaction.

Q. Do you know what the furnace allowance is in the Pittsburgh District? There has been a good deal said about it during your examination.

A. The furnace allowance or terminal allowance?

Q. The furnace allowance?

A. The furnace allowance runs from \$2.50, I think, on coke, to \$1.50 or \$1.60 on limestone. It is a per car allowance.

Q. With reference to ore, can you tell me what it is on a car of ore?

A. I think it is \$1.60 or \$1.75, I have forgotten the figures exactly.

Q. Do you recall whether or not it is \$2.25?

MR. SEVERANCE: I object to that as leading. Here is an expert witness on railroad rates from the Pittsburgh district—

MR. CORNEAU: Do you expect any expert to carry all the rates in his mind?

THE WITNESS: I do not pretend to carry them in my head, and never expect to.

By MR. CORNEAU:

Q. All right. Mr. Severance seemed to have a great deal of difficulty in understanding the pertinency of the fact that only about 14 per cent, as you testified, of the Steel Corporation's tonnage of pig iron was produced in the Youngstown District. I wish you would see if you can make that clear by another explanation.

A. Well, they have furnaces at the lake front, Pittsburgh and the valleys, with advantages accruing in Pittsburgh and Lake territories, and to the extent that they have advantages, and to the extent that a competitor is entirely confined to the valley district, to that extent they penalize themselves only on the percentage that the valley bears to their total operation, while the competitor is penalized to the extent of 100 per cent.

Q. Mr. Severance asked you in reference to the Union Railroad and if traffic on that railroad was not so fearfully dense as to make the construction of it terribly expensive. Now, it is a fact, is it not, a generally accepted fact, that the denser the traffic the cheaper the operation?

A. I am not an operating man.

Q. Well, that is generally true, is it not?

MR. SEVERANCE: He says he is not an operating man, and therefore he should not testify, if he is not an expert.

By MR. CORNEAU:

Q. It has been brought out, I think, in your cross examination, that the Union Railroad received 26 cents out of the 96 cent rate on ore from Conneaut to Pittsburgh. It has appeared from testimony this morning, which I think you heard, that the Union Railroad has a division of ten cents with trunk lines on rates from Lake ports to Pittsburgh for delivery at furnaces on the line. Now, assuming, Mr. Moore, that the ten cents is a fair measure of the value of all the service that the Union Railroad performs, if the 16 cents were kept by the Bessemer & Lake Erie in its earnings, it would very ma-

terially decrease the ratio of operating expenses to gross earnings, would it not?

A. Most decidedly.

MR. SEVERANCE: I object to that. That is axiomatic. It is also objectionable because it is founded on an erroneous supposition.

MR. CORNEAU: It is over the same railroad, from the same point, and to the same point. Usually that is the same service.

MR. SEVERANCE: No, I beg your pardon, it is not over the same railroad from the same point to the same point.

MR. CORNEAU: I so understood him.

MR. SEVERANCE: No. You do not say that at all, do you?

THE WITNESS: No; the Union Railroad delivers at North Bessemer, and the trunk lines deliver at other points.

By MR. CORNEAU:

Q. North Bessemer is about how far from Pittsburgh?

A. Eight miles from the furnaces, I believe.

MR. SEVERANCE: Eight miles from East Pittsburgh.

By MR. CORNEAU:

Q. Do you know how these other points range?

A. The distances?

Q. Yes.

A. No. It is all covered in the terminal case, but I do not remember the distances.

RECROSS EXAMINATION,

By MR. SEVERANCE:

Q. You spoke a moment ago about the advantage that the furnaces along the Lake had. That is a perfectly legitimate advantage of location, is it not; there is nothing artificial about that, is there?

A. That is true.

Q. Not only the Steel Corporation, but many other people have furnaces along the lakes; is not that true?

A. Yes, sir. They have terminal allowances also which

the railroads could control. In other words, they are given advantages by reason of terminal allowances on the raw materials which do have to be handled by rail, despite the fact that their ore comes by water, and despite the fact in the valley district we are put on a plane where a high rate is assessed on coke to offset the low rate that is made on ore to Wheeling.

Q. How much too high is the rate on coke? You say it is a high rate. How much too high is it?

A. Well, to the extent that 22 cents plus a reasonable cost is less than \$1.35.

Q. No, I ask you in figures.

A. I have not made a figure for coke. Mr. Muller in his exhibit has given what he calls constructive rates. They are rates based—

Q. (Interposing). How much is it?

A. I do not remember.

Q. You have been testifying about Mr. Muller all the time. You have given all the figures that you have given as from Mr. Muller.

A. Yes.

Q. Well, how much is the coke rate too high up there; what did Mr. Muller say about it?

A. Do you want Mr. Muller's constructive rate?

Q. Yes; what did Mr. Muller say about it? We have got nothing but Muller, so far as we have had any figures at all.

A. Well, I do not know. I would be ashamed—I think it is about 65 cents.

Q. How much was Mr. Muller's rate on ore?

A. Mr. Muller's rate on ore is about 40 cents.

Q. Do you agree with Mr. Muller?

A. I think he is reasonable, yes.

Q. Then at last I have gotten an answer to that.

A. That is all right. That is not my answer.

Q. Well, you say you agree with Mr. Muller. I am very much obliged, Mr. Moore. I am sorry I had to try so long and could not get anything before.

A. Well, I still contend that I have not expressed a personal opinion as to what the rate should be.

Q. You have no opinion on the subject?

A. No; I want the Commission to have an opinion.

Q. But you have none yourself, have you; is that right?

A. What?

Q. You have no opinion on the subject?

A. Yes; I have.

MR. SEVERANCE: That is all.

By MR. CORNEAU:

Q. Mr. Severance asked you if the furnaces of the Corporation on the Lake were entitled to the advantages of their location, and whether it was not right and just that they should have those advantages. What about Youngstown; do you have the advantage of your location there, in so far as there are any advantages of location, and what about Pittsburgh?

A. I think they do not.

By MR. SEVERANCE:

Q. In what particular do you not have the advantage of location?

A. They are not given the advantage of the density of the traffic which they have originated.

Q. Will you tell me to what extent they have not been given that advantage, and the particulars? It is easy to make general statements, but tell me the particulars in which they are not getting their natural advantages?

A. As I said, the coke rate of \$1.35—

Q. Well, how much should it be?

A. Mr. Muller's figures are—

Q. I am talking to Mr. Moore now, and not Mr. Muller—

A. (Continuing) 65 cents, as a constructive rate. He submitted that to the Commission.

Q. And if the rate on coke is reduced to 65 cents it will inure to the benefit of the furnaces in the Youngstown District?

A. Yes.

Q. And will be gratefully received, no doubt?

A. Yes.

Q. What is the fair rate on limestone?

A. It was twenty cents. It is now thirty-five cents.

Q. What would be fair—20 cents?

A. I will let you judge for yourself. They handle eighty cars, 50 tons to the car, 4,000 tons, about 11 miles with a switch engine, and they charge 35 cents a ton.

Q. If that is reduced—

A. (Interrupting) If you reduce it to a reasonable figure it is a switch charge.

Q. And the Steel Corporation will get the advantage of that as to all of its limestone?

A. Yes; and they are entitled to it.

Q. And therefore, as far as you can see, in all that Youngstown District the Steel Corporation is being pretty badly treated, with high rates on ore, with high rates on coke, and with high rates on limestone?

A. Yes. I only wonder that they do not complain the same as we do.

MR. SEVERANCE: That is all.

MR. CORNEAU: The bad treatment is on the same old 14%?

A. Yes.

(Thereupon an adjournment was taken until tomorrow, Thursday, October 10th, 1912, at 10:30 o'clock a. m.)

TWENTY-NINTH DAY.

ROOM 309 FEDERAL BUILDING,
PITTSBURGH, PENNSYLVANIA,

October 10, 1912.

The hearing was resumed at 10:30 o'clock a. m., before Special Examiner John A. Brown.

Present on behalf of the United States, Mr. Dickinson, Mr. Colton and Mr. Corneau.

Present on behalf of the defendants, Mr. Lindabury, Mr. Severance, Mr. Bolling and Mr. Reed.

A. R. KENNEDY,

having been heretofore duly sworn, was recalled as a witness and testified as follows:

RE-DIRECT EXAMINATION,

By MR. CORNEAU:

Q. Mr. Kennedy, in looking over the transcript I find that I asked you this question, as it is reported in the transcript——

MR. SEVERANCE: What page?

MR. CORNEAU: Page 4296. (Reading):

“Q. After all of your investigations, Mr. Kennedy, are you able to state any reason justifying a higher rate to Pittsburgh over the Bessemer & Lake Erie and the other lines serving that territory from Lake ports than is made to other furnace points nearer in distance to the Lake ports?”

MR. SEVERANCE: That is evidently a mistake. You mean “farther.”

MR. CORNEAU: Yes.

MR. SEVERANCE: If you will look at the next page, you will

see that he answered it with the correct understanding of your question.

MR. CORNEAU: I so understood. I just wanted to clear the record.

MR. SEVERANCE: That is all right. Just change that. I noticed it.

By MR. CORNEAU:

Q. You were asked on cross examination by Mr. Severance, at page 4316, if you did not know, as a matter of fact, that the Central Freight Association has nothing whatever to do with fixing rates or classifications upon ore, limestone or coke. You answered: "I do know that, yes."

Do you know whether or not any association or committee or other body of railroad men does have to do with the matter of fixing rates and classifications upon ore?

A. I have been told——

MR. SEVERANCE: I object to any hearsay testimony from this witness. We had enough yesterday. If he merely knows what he has been told, I object to his testifying to it.

MR. CORNEAU: If you do not know, we will let it go at that.

THE WITNESS: I do not know authentically, no sir.

By MR. CORNEAU:

Q. You declined, yesterday, to name the person who told you something with reference to the Bessemer & Lake Erie's membership in the Trunk Line Association, I think.

MR. SEVERANCE: At what page?

MR. CORNEAU: Page 4318.

By MR. CORNEAU:

Q. Do you care to make any explanation of why you declined?

, A. It would not be for the best interests of the man that told me, or the several men that told me. It would not help their positions much.

MR. SEVERANCE: Do you think that is very nice, to have that come into the record, Mr. Corneau? Did you know that he was going to say that?

MR. CORNEAU: I rather thought he was, yes. Why?

MR. SEVERANCE: All right.

MR. CORNEAU: He so testified down in Washington, as you will see if you look at the transcript.

By MR. CORNEAU:

Q. On page 4324 of the transcript of yesterday's evidence, speaking with reference to the hauling over the D., M. & N.—

MR. SEVERANCE: Before you put another question I want to move to strike out of the record the answer just given and the answer that he gave yesterday, a reference to which I cannot give at the moment, in which he stated as a fact that the Bessemer & Lake Erie was a member of the association in question, on the ground not only that it is hearsay, but that the witness declined to give even the source of his information.

MR. CORNEAU: I do not know just what the first answer is of which you speak, that you want stricken out.

MR. SEVERANCE: The one he just gave.

MR. CORNEAU: His explanation?

MR. SEVERANCE: Yes; his explanation.

MR. CORNEAU: My only purpose in asking that question, Mr. Severance, was to see whether or not he himself had any personal grounds for declining to answer, or whether it was merely his conception of the way he should act with reference to others.

MR. SEVERANCE: You understand, Mr. Corneau, how very helpless we are here. We have nobody to rule, and you can fill up the record with that sort of stuff containing inferences, as though this man were a martyr to principle, or something like that, instead of being what he is.

MR. CORNEAU: I object to that statement, "instead of being what he is." Let us get back to the question.

By MR. CORNEAU:

Q. At page 4324 of the transcript of yesterday's evidence, speaking with reference to the haul on the D., M. & N., you were asked this question by Mr. Severance:

“And that involves, then, instead of a haul on the average of 78 miles over the D., M. & N., a loaded haul of 78 miles and an empty haul of 78 miles on the same car?”

To which you answered:

“Practically so, yes, sir.”

Do you know whether or not that same thing is true in the case of the movement of ore from the Michigan ranges to the points served by those roads?

A. I would answer in the same manner, practically so.

Q. You were also asked by Mr. Severance whether or not the ore business of the Duluth & Iron Range and Duluth, Missabe & Northern was all the year round business, and you answered: “No, sir.” Do you know whether or not the ore business of the Michigan roads is all the year round business?

A. About the same period of the year; yes, sir; about seven months.

Q. At page 4326, speaking with reference to the length of haul of ore over the D., M. & N., Mr. Severance asked you this question:

“The mines that were covered by the Hill lease, from which a great amount of this ore is taken, which is moved down to Duluth, are over in the vicinity of Coleraine, are they not?”

To which you answered:

“I could not testify to that.”

Do you happen to know whether or not, under the terms of the Hill lease, all the ore mined under that lease was required to be shipped over the Great Northern Railway?

MR. SEVERANCE: May I ask a question before he answers that?

MR. CORNEAU: Yes.

By MR. SEVERANCE:

Q. That lease is in writing, is it not? Or do you not know?

A. I do not know whether it is or not.

Q. Did you ever see it?

A. No, sir; I did not see the lease.

MR. SEVERANCE: I object to the witness' answer on the

ground that any testimony he would give in the matter would be mere hearsay.

MR. LINDABURY: Has not the Hill lease already been put in evidence?

MR. CORNEAU: You will hardly dispute that that is a fact, will you? I will withdraw the question.

By MR. CORNEAU:

Q. At page 4330 I find that Mr. Severance asked you this question with reference to what was embraced in the figured cost of $28\frac{1}{4}$ cents for the movement of ore from Conneaut to North Bessemer:

“Q. Maintenance charges have nothing to do with the cost for conducting transportation.

“A. I appreciate that.

“Q. They have nothing to do with the movement. Therefore that $28\frac{1}{4}$ cents a ton does not include anything but the movement.

“A. That is the way this report reads, yes, sir.”

I wish you would look at the report, if you have it before you.

MR. SEVERANCE: I object to the witness reading anything from this report. I asked him nothing about any report. That was a voluntary statement on his part as to what a report showed. The report was not made up by him, and it is hearsay.

THE WITNESS: Shall I answer?

MR. CORNEAU: Yes.

THE WITNESS: I have looked over the report since yesterday, and in analyzing it, I find $28\frac{1}{4}$ cents per ton does cover the maintenance cost.

By MR. CORNEAU:

Q. At page 4334 of the record, speaking with reference to your testimony before the Interstate Commerce Commission in your ore case, Mr. Severance asked you this question:

“Q. You testified there, not to $28\frac{1}{4}$ cents, but you testified that it was only 26 cents, did you not?

“A. Yes, sir.”

Did you or not, at the time you testified in your ore case before the Interstate Commerce Commission, explain where you got that 26 cents, and what it was?

A. I explained it in the ore case; yes, sir.

Q. I do not happen to have the reference to that, but I have a copy of your testimony here. I wish you would see if you can find that, if it does not take too long. (Handing witness book of testimony).

A. Glance right through those pages there (indicating in book of testimony).

Q. At page 275 of the transcript of the record in that ore case, I will begin to read and ask you if you were asked——

MR. SEVERANCE: Just a moment.

MR. CORNEAU: I thought I would go at it as you did yesterday.

MR. SEVERANCE: But I was cross examining the witness.

MR. CORNEAU: And I am examining him on re-direct examination.

MR. SEVERANCE: I desire to object to the witness reading from the record and thereby informing himself as to what he should testify to in this case. He has no right to do that, and counsel has no right to lead the witness in that way.

MR. CORNEAU: The manner in which the matter was left yesterday was such as to warrant the inference that this witness had himself arrived at two different conclusions. I think that in justification of the witness it is proper to show all that he said on that subject.

By MR. CORNEAU:

Q. I will ask you if at that time you were asked this question and made this answer——

MR. SEVERANCE: I make the same objection to the reading of anything from that record, to refresh the recollection of the witness.

MR. CORNEAU: I will meet that objection beforehand. I will withdraw that question for the moment.

By MR. CORNEAU:

Q. Mr. Kennedy, will you explain just what else you said with reference to that 26-cent cost at the ore hearing before the Interstate Commerce Commission, with reference to how you arrived at it?

A. My recollection is that at that hearing I said a 26-cent cost for handling ore from Conneaut Harbor to North Bessemer by the Bessemer & Lake Erie Road was based on an investigation made by Senator Oliver, and given in testimony in the Stanley hearing. Also based on the general manager's report of the Bessemer & Lake Erie Road for 1910, a copy of which our counsel has. I am not so sure, but I think I mentioned Mr. Freer's name quoting the same rate, as being the cost of the service, in the testimony before the Stanley Investigating Committee.

Q. At that time were you asked the questions and did you make the answers as follows:

MR. SEVERANCE: I object to counsel reading any testimony of the witness given on some other occasion, as an endeavor to show by some declaration in his own interest, something in support of the testimony here given, and as leading, incompetent and irrelevant. This is not cross examination.

MR. CORNEAU: In view of the objection, I will put this question to you instead.

By MR. CORNEAU:

Q. Did or did not Mr. Severance, when he was reading to you excerpts from your testimony, read all that you testified on that subject?

MR. SEVERANCE: If you know.

Q. (Continuing). According to your best recollection.

A. My recollection is that he did; yes, sir.

By MR. CORNEAU:

Q. At page 4346 of the transcript of yesterday's proceedings this question and answer appear:

"Q. Is it not a fact, sir, that last year the ore tonnage of the Corporation works, as follows, the Ohio Works at Youngstown, the New Castle works, North Sharon, South

Sharon, Niles furnace—those are the Valley plants of the Steel Corporation?

“A. Yes.

“Q. (Continuing) Amounted to 3,972,000 tons; while the tonnage to the Youngstown Sheet & Tube Company and the Republic Iron & Steel Company, the competitors in the Valleys, amounted to 2,239,000 tons annually?

“A. I cannot answer that.”

Q. Can you state generally whether or not there are other competitors of the Steel Corporation using ore in the Valleys than the Youngstown Sheet & Tube Company and the Republic Iron & Steel Company?

A. I think there are a great many others; yes, sir.

Q. Can you name some of them?

A. The Shenango Furnace Company; the Brier Hill Iron & Steel Company. I cannot recollect any more, but I think there are a whole lot more.

Q. Do you know about the number of blast furnaces in that district?

A. My recollection is that there are 43.

Q. Do you know about how many of them are owned by the Steel Corporation?

A. As near as I can recollect, about twelve or thirteen.

Q. Do you know how many the Republic Iron & Steel Company has?

A. I believe they have four.

Q. Do you know how many the Youngstown Sheet & Tube Company has?

A. Three; to my knowledge they have three.

Q. That is somewhere from twenty to twenty-three blast furnaces belonging to the three concerns mentioned by Mr. Severance, then; 12 to 15 belonging to the corporation, four and three to the others respectively?

MR. SEVERANCE: That is a matter of addition.

A. In that neighborhood.

By MR. CORNEAU:

Q. So that there would be remaining some twenty-three blast furnaces that Mr. Severance did not take into account

in computing the 2,239,000 tons consumed by the competitors in the Valley? Is that right?

A. Yes, sir.

MR. SEVERANCE: Read the next question and you will see that he stated that those were the chief competitors—those two; the largest.

MR. CORNEAU: Yes; I recollect, after I had made this statement.

“MR. CORNEAU: Do I understand you to state that those two are the only competitors in the Valleys, Mr. Severance?”

MR. SEVERANCE: I did not say they were, did not suppose they were, and knew they were not.

MR. CORNEAU: Your statement was, “the competitors in the Valleys.”

By MR. CORNEAU:

Q. At page 4363, after showing what points were nearest, this occurs:

“A. Warren is the nearest, by the way.

“Q. What is the distance?

“A. Forty-four miles.

“Q. And the 56-cent rate applies, does it?

“A. Yes, sir.

“Q. How far is Youngstown?

“A. Fifty-nine miles.

“Q. Then you get almost a cent a ton a mile up to Youngstown?

“A. Yes, sir.

“Q. Youngstown, then, is eight miles nearer than the average, which is 66.9?

“A. Seven miles, practically.

“Q. Well, about eight miles nearer. Is it not a fact that Youngstown is the point of largest consumption in that district?

“A. Youngstown, Struthers, Haselton and Brier Hill are right together, within a few miles.”

State whether or not the distances that were there re-

ferred to were the distances from the nearest points to Youngstown.

A. I will answer that by giving the actual mileages from the port to each town.

Q. Very well.

A. Into Lowellville——

MR. SEVERANCE: What plant is there at Lowellville?

THE WITNESS: The Ohio Iron & Steel Company, with one furnace. (Continuing) Into Lowellville.

From Ashtabula, 67.4 miles, via Pennsylvania Lines.

Struthers, from Ashtabula, 64.2 miles, via the Pennsylvania.

Haselton, 62.2 miles from Ashtabula via Pennsylvania Lines.

Youngstown 59.2 miles from Ashtabula via Pennsylvania Lines.

Brier Hill, 56.7 miles from Ashtabula via Pennsylvania Lines.

Girard, Ohio, from Ashtabula, 54.3 miles, via Pennsylvania Lines.

Niles, Ohio, from Ashtabula, 49.7 miles via Pennsylvania Lines.

Warren, Ohio, from Ashtabula, via Pennsylvania lines, 44.5 miles.

New Castle, Pennsylvania, from Erie, Pennsylvania, 96 miles, via Pennsylvania Lines.

West Middlesex, Pennsylvania, from Erie, Pennsylvania, 81 miles.

Wheatland, Pennsylvania, from Erie, Pennsylvania, via Pennsylvania Lines, 78.8 miles.

To South Sharon, Pennsylvania, from Erie, Pennsylvania, via Pennsylvania Lines, 76.7 miles.

Q. Without going into the details, what I want to get at is this: Whether or not the assumption which seemed to be involved in Mr. Severance's question, that all the ore into a particular district would move over the shortest route from the nearest port was a correct assumption.

A. No, sir; it was not.

Q. You were asked, at page 4367, about furnace allowances. I wish you would just state what the furnace allowance is in the Pittsburgh District, if you know.

A. The allowance to blast furnaces within the Pittsburgh District by the trunk lines on iron ore is \$2.25 per car; coke, \$1.75 per car; and limestone, \$1.60 per car.

Q. At page 4384 of the transcript of yesterday's proceedings, you were asked this question:

"Have you ever filed a complaint with the Interstate Commerce Commission before?"

That is, before the complaint which has been under discussion here; and you answered:

"A. On ore rates?"

"Q. Yes.

"A. No, sir."

Will you just state the reason for filing the complaint at this time?

MR. SEVERANCE: I object to that as immaterial.

MR. CORNEAU: You were trying to show something there; I do not know just what; I think, however, we might as well find out what the reason was.

THE WITNESS: The purpose in filing the complaint was, naturally, to get the advantage, if any reduction was to be made, in the ore rates by the Commission or the railroads, in view of our new furnace operation.

By MR. CORNEAU:

Q. Just tell us a little about that.

MR. SEVERANCE: He does not know about that.

MR. CORNEAU: He may have learned something about it.

MR. SEVERANCE: Over night?

MR. CORNEAU: No; at the time of his ore investigation.

THE WITNESS: We hope to have our blast furnaces in operation, at least one of them, by March 1, and the other shortly after, next year.

By MR. CORNEAU:

Q. Would or would not that make a very material difference in the amount of ore you would use?

A. I should say it would. We will then use approximately 600,000 tons a year.

Q. You were asked some questions at pages 4392 and 4393, with reference to the Lake Terminal Railway at Loraine. Can you tell me the nature of the service performed by that road in general, in addition to hauling this ore from the docks to connecting lines?

A. It serves the plants of the National Tube Company which I understand owns the railroad, in addition to serving the ore docks.

Q. What is the situation of the Newberg & South Shore?

A. It is in the same position as the Lake Terminal Railroad. It serves the American Steel & Wire Company plants at Cleveland in a like manner that the Lake Terminal serves the National Tube Company.

MR. CORNEAU: I think that is all.

RECROSS EXAMINATION,

By MR. SEVERANCE:

Q. Do you realize the import of your last answer, Mr. Kennedy, that the Newburg & South Shore serves the American Steel & Wire Company plants at Cleveland, in the same manner that the Lake Terminal serves the tube works at Loraine? Do you mean to say that?

A. Practically so, yes.

Q. You do?

A. The grades are different, and that sort of thing, and the interchange points—

Q. Just a moment. I am not talking about the movement in connection with the trunk lines. You were asked whether, in addition to that, they did not do something else, and you said they served the plants. You also stated they served them in the same manner.

A. Practically so.

Q. Do you know those two lines at all?

A. Yes, sir.

Q. You do?

A. Yes.

Q. How far is it from the plant of the American Steel & Wire Company in Cleveland, where the blast furnaces are located, to the plant of the American Steel & Wire Company at Newburg?

A. I would say about two miles.

Q. Two miles?

A. A mile and a half to two miles.

Q. Is it?

A. Yes.

Q. Would you be surprised to know that it is seven miles from one plant to the other, and that that was fully developed in the Terminal Hearing, and that you were present representing that company?

A. Indeed I was not, anything of the kind. You are mistaken on that.

Q. You appeared before Commissioner Harlan in the Terminal Investigation?

A. I was not present at the hearing of the Newburg & South Shore testimony. Please correct your mind on that.

Q. Would it surprise you to know that it was there testified, and not disputed, and shown by the maps, that it is seven miles from one of those plants to the other?

A. I would not dispute it, no sir.

Q. Why did you say it is a mile and a half to two miles, then? You do not know anything about it?

A. That is my best observation of it.

Q. You do not know anything about it?

A. I know something about it.

Q. You do not know that any better than you know the growth of the Pittsburgh Steel Company?

A. That is a matter of a difference of opinion.

MR. CORNEAU: I object to that.

By MR. SEVERANCE:

Q. If it seven miles from the blast furnaces down to the river, to the American Steel & Wire Works at Newburg and these two plants are connected by the Newburg & South Shore, there is certainly a very considerable difference between the character of service performed for the works there and at Loraine, is there not?

MR. CORNEAU: Do you mean between the character of the service or the amount? Which do you mean?

MR. SEVERANCE: The character.

THE WITNESS: There is in distance only.

By MR. SEVERANCE:

Q. As a matter of fact, is hot metal transported at all at Loraine?

A. No, sir.

Q. By the Lake Terminal?

A. No, sir.

Q. Is not that metal, as a matter of fact, in large quantity transported by the Newburg & South Shore from the blast furnace on the river to Newburg Works, seven miles away?

A. Yes, sir. Plant facility works.

MR. SEVERANCE: I did not ask you to characterize it, as to whether it is one thing or another. That is a voluntary statement, and I move to strike it out. You were not asked to characterize anything, but merely to answer the questions put to you, which you sometimes do and sometimes do not.

By MR. SEVERANCE:

Q. The whole question of the relations of the terminal lines at Loraine, Cleveland, and in the Pittsburgh district, and at Wheeling, is under investigation, is it not?

A. Yes, sir.

Q. By the Interstate Commerce Commission, which has jurisdiction over those matters?

A. I understood so; yes, sir.

MR. CORNEAU: I object to that question as wholly irrelevant and immaterial.

MR. SEVERANCE: I am showing that those are to be tried out where they are properly cognizable.

By MR. SEVERANCE:

Q. And in that investigation, when it was in session here in Pittsburgh, you appeared and gave testimony relative to the tracks around the plant of the Pittsburgh Steel Company, did you not?

A. Yes, sir.

Q. You said in answer to counsel a moment ago that all blast furnaces in the Pittsburgh district receive an allowance of \$2.25 on ore, \$1.75 on coke and \$1.60 on limestone, as I understood you.

A. That is my recollection of the allowance; yes, sir.

Q. Do you think that statement is accurate?

A. The published tariff rates.

Q. Do any blast furnaces that are located on the lines of the Union Railroad—

A. (Interrupting) With that exception, and the Jones & Laughlin line.

Q. Well, you did not except them in answer to counsel—

A. That is generally known by counsel on both sides, is it not?

Q. I do not know. You are testifying here under oath.

A. I will make those two exceptions. Those two lines get ten cents a ton from the trunk line.

MR. CORNEAU: May I ask one question here? What is the difference between that ten cents a ton and the \$2.25 a car?

MR. SEVERANCE: He does not know about it.

THE WITNESS: The difference is about four cents a ton in favor of the Union Railroad and the Monongahela Connecting Railroad.

By MR. SEVERANCE:

Q. That is, in revenue?

A. In the allowance.

Q. In the revenue received?

A. In the allowance they receive.

Q. Do you know what "revenue" means?

A. Yes.

Q. Well, I ask you if you mean that it is four cents difference in the work done by the Union Railroad over the amount done by these small roads connected up by the blast furnaces.

A. Yes, sir.

Q. Say so, then.

A. I think I did say so.

Q. No, you did not. . .

In the course of your voluminous investigation into conditions here, have you ascertained how much ore is received by the furnaces of the Steel Corporation, subsidiaries of the Steel Corporation, in the Pittsburgh district, going over trunk lines other than the Bessemer & Lake Erie?

A. Is received?

Q. Yes.

A. I have not.

Q. You would not be surprised—you spoke about being surprised yesterday—if it amounted to between 3,000,000 and 4,000,000 tons?

A. No, I would not be surprised. That is about what I approximated it. That would be under full operation, of course.

Q. On all that tonnage coming in over the trunk lines the Steel Corporation pays the regular rate, does it not?

A. Yes, sir; less the terminal allowance.

Q. Less the terminal allowance?

A. Yes.

Q. And the other blast furnaces in the district that are disconnected from the Corporation, as you stated, receive the terminal allowance?

A. Yes, sir.

Q. Then a reduction in the rates from the lake ports to the Pittsburgh district would benefit the Corporation on all of that ore that comes in over the Pennsylvania, the Pittsburgh & Lake Erie or the Wheeling and Lake Erie, to the extent of such reduction, would it not?

A. To the plants where they make pig iron only, yes, sir.

MR. SEVERANCE: Read the question.

(The stenographer repeated the question as above recorded.)

By MR. SEVERANCE:

Q. That is true, is it not?

A. To the plants where they make pig iron, with one exception——

Q. What difference does it make what they do with it, if they ship in ore under a reduced rate over the trunk lines, they will pay that much less freight, will they not?

A. That is true; yes, sir.

Q. That is all I asked you.

A. All right.

Q. I did not ask you anything about where it is consumed. If the rates are reduced into the Valleys, as prayed for in the petition of the Republic Iron & Steel Company and others, the Steel Corporation on all of its ore moving into that territory will benefit to the same extent as other shippers, will it not?

A. I should imagine so; yes, sir.

MR. SEVERANCE: That is all.

By MR. CORNEAU:

Q. Mr. Kennedy, although on the ore shipped to furnaces not located on the lines of the Union Railroad, it would benefit the Corporation to the extent of such ore to have the rate to Pittsburgh reduced, what would be the effect upon the Corporation with respect to the ore coming over the Bessemer & Lake Erie?

A. The effect would be that to whatever extent the rate was reduced on the Bessemer & Lake Erie, which would naturally be the rate published by other lines, the Corporation would lose just that much profit on the ore hauled to the plants of the Steel Trust.

Q. I believe you stated on your direct examination about what the comparative tonnages were, going on the one hand

over the Bessemer & Lake Erie to the Corporation plants, and over the trunk lines to the Corporation plants. I do not care to have it re-stated. I think you stated that?

A. Yes, sir, I think I stated that yesterday. That is my recollection.

Q. Did the Steel Corporation join in your complaint or is it cooperating with you in your complaint with reference to ore rates to Pittsburgh?

A. No, sir.

By MR. SEVERANCE:

Q. If the Republic Iron & Steel Company and its associates are successful in their litigation before the Interstate Commerce Commission and secure a reduction in the rates on ore to the Valleys, the Steel Corporation will share in the benefit of that reduction to the extent of its shipments of ore to the Valleys, will it not?

A. Yes, sir.

Q. Because it has to pay out the freight to trunk lines that are not affiliated with it?

A. Yes, sir.

Q. If the Pittsburgh Steel Company is successful in its litigation before the Interstate Commerce Commission and secures a reduction in the ore rate from the lake ports to the Pittsburgh district, the Steel Corporation, or the subsidiaries of that Corporation, will share in the benefits of that reduction upon all the ore, which you say you think amounts to between three and four million tons, which it ships from lake ports into the Pittsburgh district over trunk lines other than the Bessemer & Lake Erie?

A. That is correct; yes, sir.

Q. The Bessemer & Lake Erie belongs ultimately to the Corporation, does it not?

A. Yes.

Q. It belongs to the Corporation, we will say?

A. Yes, sir.

Q. The furnaces at which the ore coming over the Bessemer & Lake Erie is consumed belong to the Corporation?

A. Yes, sir.

Q. Then whatever change is created in the reduction of that

rate, if the Bessemer & Lake Erie puts in the same rate as the trunk lines, it would amount to this; that the earnings of the Bessemer would be diminished to the extent of that reduction; and the expenditures of the subsidiary company, the Carnegie Steel or whatever it may be, also owned by the Corporation, would be diminished to the same extent?

A. They would make less profit, yes.

Q. No, that is not what I asked you, and that is not so. Just let me call your attention to the facts. If the published rate is reduced and the Bessemer & Lake Erie publish the same rate that the trunk lines are compelled to publish, as the result of the successful litigation on your part, assuming that you are successful—

THE WITNESS: Thank you.

Q. (Continuing) Then the earnings shown, to the Bessemer & Lake Erie on ore, would be diminished the same number of cents per ton as the earnings of the trunk lines handling ore to the Pittsburgh district, would they not?

A. If it cost them the same to handle it.

Q. No, no, no—I mean the gross earnings.

A. Yes, sir. You did not say that.

Q. The same reduction per ton, if they publish the same rate?

A. Exactly.

Q. That ore is consigned to another subsidiary of the Steel Corporation, as you say all the ore coming over the Bessemer & Lake Erie goes to the subsidiaries of the Steel Corporation.

A. Yes.

Q. Now, the result to that other subsidiary, the consuming subsidiary, would be that the amount it pays out for freight would be reduced to the same extent as the earnings of the Bessemer & Lake Erie were reduced; is not that true?

A. Yes, sir; that is correct. That is what we want.

Q. Yes. Well, that might be a good thing all around, I do not know. Instead of having you characterize it, I want to get the facts on the record; that is all. The Court can determine the effect.

MR. DICKINSON: Will you read that last question and answer?

(The stenographer repeated the last question and answer as above recorded.)

MR. DICKINSON: You mean proportionately?

MR. SEVERANCE: Yes, per ton. I simply want to have it concretely stated. That is the net result of all he has said.

MR. CORNEAU: Except you misapprehend the point.

MR. SEVERANCE: The point is for the Court and not for the witness. The facts are for the witness, and not the conclusions.

By MR. CORNEAU:

Q. Assuming that the actual cost of operation over the Bessemer & Lake Erie remains the same, although the rate was reduced, its advantage as against the competitor who had to pay a trunk line would be greater as the rate the competitor had to pay would be greater, would it not?

MR. SEVERANCE: Objected to as a conclusion and as incompetent. That is a matter for the Court. The facts are all in the record now, and the Court can determine the effect and not this witness.

By MR. CORNEAU:

Q. Now will you answer the question?

A. Will you read the question?

(The stenographer repeated the question as above recorded.)

A. I believe that is correct.

By MR. CORNEAU:

Q. In other words, if I understood your explanation correctly, it was this: that such advantage as the Corporation had in the matter of transportation by reason of owning the Bessemer & Lake Erie was that the competitors had to pay out to the trunk lines the full rate, while the Corporation got it for cost of service, plus a reasonable return on the service?

A. Yes, sir.

By MR. SEVERANCE:

Q. That is true in so far as the ore moving over the Bessemer is concerned?

A. The percentage of the ore that moves over the Bessemer.

Q. That is your view?

A. Yes.

Q. But you do not claim that the Corporation has any advantage whatever over its competitors either in the Valleys or the Pittsburgh district on ore that moves over the other trunk lines?

A. I am not talking about the Valleys at all——

Q. I am, though.

A. What advantage they have in lower rates in the Valleys——

Q. (Interposing) I am talking about it. You are supposed to answer my questions.

A. I cannot answer about the Valleys.

Q. It is very difficult to get you to answer questions——

A. (Interrupting) In your way, possibly——

MR. SEVERANCE: I think, upon reflection, I will cut out the question and let it go. You have already stated that once. No further questions.

THOMAS W. FITCH,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Fitch, where do you reside?

A. Crafton, a suburb of Pittsburgh.

Q. What is your age?

A. 69.

Q. If you are engaged in any present business, please state what it is.

A. I am president of the Columbia Steel & Shafting Company, manufacturing shafting shapes.

Q. How long have you been president of that company?

A. I have been president of that company two years; general manager since 1900.

Q. Prior to 1886 were you associated with Messrs. Edenborn, Gates and Clifford in the St. Louis Wire Mill Company?

A. Yes, sir.

Q. State whether or not you had anything to do with building a wire mill at Rankin, Pennsylvania, and if so at what time, and what company built it.

A. The site was bought in 1885, and the works designed and building begun at once. We started running in 1886.

Q. What company?

A. The Braddock Wire Company.

Q. Was that property sold, and if so to whom?

A. It was sold to the Braddock Wire Company.

Q. Was it ever sold to the Consolidated Steel & Wire Company?

A. The Consolidated Steel & Wire Company became connected with it many years afterwards.

Q. When?

A. About 1890.

Q. Connected in what way?

A. By a merger with the St. Louis Wire Mill Company, and then the name Consolidated Steel & Wire Company was given to both companies.

Q. Did you have anything to do with building a plant in 1889, at Braddock, Pennsylvania?

A. Yes, sir.

Q. What kind of a plant was that?

A. That was a plant similar to the one at Rankin, and named the Pittsburgh Wire Company.

Q. Was that plant sold, and if so, to whom?

A. It was sold in 1898 to John W. Gates and his associates.

Q. Was that before or after the formation of the American Steel & Wire Company of New Jersey?

A. It was before the formation of the American Steel & Wire Company.

Q. Who were those associates?

A. John W. Gates, William Edenborn, John Lambert, Arthur Clifford, Isaac L. Ellwood, Willis H. Rowe.

Q. Did they buy the property, or did they buy the stock of the company?

A. They bought the capital stock of the company from the individual stockholders.

Q. What was manufactured at the Braddock plant of the Pittsburgh Wire Company? What did they make?

A. Wire rods and wire nails.

Q. Where did they sell those products? In what part of the country?

A. In nearly all parts of the country, but mostly east.

Q. Generally throughout the United States?

A. Yes, sir.

Q. State whether or not those products were sold in competition, in interstate commerce, with the companies that were under the control of Gates and his associates.

A. At that time, yes sir.

Q. What other companies outside of those at that time controlled by Gates and his associates did this Braddock plant sell those things in competition with?

A. Mostly with the wire rod mills at that time.

Q. Those were at that time generally in existence?

A. They were generally in existence at that time.

MR. LINDABURY: He competed with rod mills generally?

THE WITNESS: Yes; with rod mills generally and nail mills generally, and plain wire mills generally.

By MR. DICKINSON:

Q. State whether or not there was a nail pool in 1896.

A. Yes, sir.

Q. Did the Pittsburgh Wire Company, during that time, make or lose money in the manufacture and sale of nails?

A. It made money.

Q. Did the existence of that pool affect the prices, and if so, how?

A. It did, by lending stability to the price at that time. There was not the competition, because the prices were maintained under the pool.

Q. Compared with the prices that existed before the organization of the pool, were they higher or lower?

A. They were higher.

Q. Do you mean the prices under the pool were higher than those that existed before the formation of the pool?

A. Yes, sir. I might add that that was the reason for the formation of the pool, to make the price higher, because there was destructive competition at that time.

Q. And did it effect the object of the formation of the pool?

A. Yes, sir.

Q. If, Mr. Fitch, prior to the time the Pittsburgh Wire Company was sold to the American Steel & Wire Company of New Jersey that company bought any barbed wire, machines for the purpose of manufacturing barbed wire, state when they got them if they did get them, and how many and whether they established a barbed wire plant for the purpose of making barbed wire.

A. You mean the Pittsburgh Wire Company? Has that reference to the Pittsburgh Wire Company?

Q. The Pittsburgh Wire Company.

A. Yes. The Pittsburgh Wire Company, had bought some second hand barbed wire machines with the intention of establishing a barbed wire plant at its works at Braddock.

Q. Were those machines operated by that company?

A. They were installed, and the power attached to them, but they were not run, because a suit was brought here in this court by the Columbia Wire Company against the Pittsburgh Wire Company on the ground of an infringement of the patent on the machines.

MR. LINDABURY: When was that?

THE WITNESS: In 1904, the suit was brought.

MR. REED: You mean 1894, do you not, Mr. Fitch?

THE WITNESS: 1894, yes; that is right.

By MR. DICKINSON:

Q. Do you know whether or not John W. Gates, at that time, when that suit was brought, had any connection with the Columbia Wire Company?

A. Yes; he was the head of the Columbia Wire Company.

Q. State whether or not John W. Gates, or any company controlled by him, or he and his associates, purchased those machines from your company.

A. Yes; that was settled out of court. The suit was brought here and an injunction was asked, and the case was settled out of court by an interview between Mr. Bindley, myself and Mr. Gates.

MR. LINDABURY: A preliminary injunction had been issued?

THE WITNESS: Not until after the settlement was made.

By MR. DICKINSON:

Q. So that, as an outcome of that settlement, they purchased those machines?

A. Yes, sir; they were purchased and scrapped.

Q. How many machines? Have you stated that?

A. I think there were about six. It was just a beginning.

Q. Were those machines new or second hand?

A. They were second hand.

Q. What had you paid for them? What was the price paid by your company?

MR. REED: That is objected to as irrelevant.

THE WITNESS: Something under \$3,000 was the total cost.

By MR. DICKINSON:

Q. What was paid to your company, in that settlement?

A. \$10,000.

Q. Connected with the purchase of the machines was there any agreement entered into by yourself and Mr. Bindley and others, and if so, what was it?

A. Yes; not to enter into the barbed wire business.

Q. For what period?

A. I cannot remember. I think it was indefinite. We never attempted it afterwards, anyhow.

Q. You never have entered into that business?

A. No sir.

Q. And your recollection was that it was indefinite?

A. Yes.

Q. What do you mean by indefinite?

A. That we were not to go into it at all. The usual period is ten years in the case of an agreement of that kind, but, as I say, we did not attempt to go into it.

Q. Was there any such limitation as that in this particular agreement?

MR. LINDABURY: Ought we not to have it, Judge?

By MR. DICKINSON:

Q. Have you that agreement?

A. No, sir; I do not think I have. Mr. Bindley may have it.

MR. LINDABURY: I do not understand the witness to remember with exactness the terms of that agreement.

THE WITNESS: No; I only remember the amount paid and the fact that we were not to go into the business again. We surrendered the machines to them and they scrapped them.

MR. LINDABURY: You do not remember the number of years during which you were not to go into that business, do you?

THE WITNESS: No. It certainly would not be less than ten years.

MR. REED: It is just your inference, is it not, Mr. Fitch?

By MR. DICKINSON:

Q. As I understand, to the best of your recollection that particular agreement was, as you have stated, that you were not to go into that business at all?

A. That we were not to go into it at all, yes.

MR. LINDABURY: I did not understand him to say that. I want to be perfectly fair, Judge.

By MR. DICKINSON:

Q. Did you not say that, that you were not to go into the business at all?

A. Yes, sir. In perfect good faith we were not to go into it again.

MR. LINDABURY: Do you mean you were never to go into it again?

THE WITNESS: Never, yes.

MR. DICKINSON: That is what I understood him to say before.

MR. LINDABURY: I understood that he had no recollection as to the time.

MR. DICKINSON: No, I understood him to say that they were never to go into the business again.

MR. LINDABURY: I understand. You, apparently, are right, Judge.

THE WITNESS: The Pittsburgh Wire Company was not to go into it again.

By MR. DICKINSON:

Q. Who entered into that agreement not to go into business?

A. The Pittsburgh Wire Company and the Columbia Wire Company were the parties.

Q. Did any of you, individually?

A. No, sir; not in that case.

MR. LINDABURY: I think we ought to call for the production of that paper. I am quite satisfied that the witness is in error about it.

By MR. DICKINSON:

Q. Do you know where that agreement is?

A. No, sir; I do not.

Q. When did you last see it?

A. I do not know whether Willis McCook had it or not. The only thing is to make a note to ask if Willis McCook, the attorney here, or John Bindley, have that agreement.

Q. You have not got it?

A. I have not; no, sir.

Q. Mr. Fitch, please state, so far as you can recall, the names of the companies in the United States that were manufacturing barbed wire during the period from 1890 to 1899.

A. I have been interviewed by the counsel on both sides of this case, and I judged, from what they asked me, that there would be a question of that kind; so I, from memory, jotted down, in a rough way, what those companies were; and if I may be permitted to refer to that memorandum, I can save a good deal of time.

MR. REED: We have no objection, if Judge Dickinson has none.

MR. DICKINSON: I have no right to call for a paper of that sort. I am asking for your memory.

THE WITNESS: It is a rough draft.

MR. DICKINSON: I am asking for your memory. Is there any objection to his using that memorandum?

MR. REED: Not a bit, as far as we are concerned.

MR. LINDABURY: It is a matter of memory, anyhow, except that he has put it down in the form of a memorandum.

THE WITNESS: Yes; it is a matter of memory.

MR. REED: That is what you remember, and not what somebody else has remembered for you, Mr. Fitch?

THE WITNESS: Yes. I have not consulted anybody. I knew I would take up too much of your time if I were to try to remember it without putting it down at my leisure.

By MR. DICKINSON:

Q. What period does that paper that you have there cover?

A. Some of it covers more than the period about which you inquire, but in looking it over I can only name those that were in that period.

Q. Please name those that were in that period, that were making barbed wire.

A. Yes; not rods or wire, but just barbed wire?

Q. Just barbed wire.

A. I will look over this list. (Consulting memorandum)

John A. Roebling's Sons, Trenton, New Jersey.

Iowa Barbed Wire Company, Allentown, Pennsylvania.

Oliver Wire Company, Pittsburgh, Pennsylvania; I think

they operated under the name of H. B. Scott Company; that is, their barbed wire department.

Of course there was the American Steel & Wire Company at Rankin. They had barbed wire machines.

Packers Wire Nail Company, Cleveland, Ohio.

The Cleveland Rolling Mill Company, Newburg, Ohio.

The Crawford Wire Company, Crawfordsville, Indiana.

The Cincinnati Barbed Wire Company, Cincinnati, Ohio.

A man named Schnabel manufactured barbed wire in Chicago. It was from him that we bought barbed wire machines. They were his make of barbed wire machines, and we bought them when we tried to start. He had a little shop there. I was in it at one time.

Lambert & Bishop, Joliet, Illinois.

This is in answer to your question directly, Judge.

Q. I understand.

A. Within that period which you named.

Q. Yes; 1890 to 1899.

A. Yes.

H. B. Scott Company, Joliet, Illinois.

Ashley Wire Company, Joliet, Illinois.

Dillon & Griswold Wire Company, Sterling, Illinois.

Haish Wire Company, De Kalb, Illinois.

Ellwood & Glidden, De Kalb, Illinois.

Continental Wire Company, Granite City, Illinois.

Freeman Wire Company, East St. Louis, Illinois.

The Missouri Wire Company, I think, came in afterwards.

The Omaha Barbed Wire Company, Omaha, Nebraska.

The Lawrence Barbed Wire Company, Lawrence, Kansas.

I think that name was afterward changed to Hendly. However, that is the name of it.

I have a name here, the Rockdale Works, near Joliet. I think that was Lambert & Bishop; I am not certain. I may duplicate that. It may have been one of the old works. Lately I have known it as the Rockdale Works, but it may have been one of those earlier concerns that I named there in Joliet.

Washburn & Moen, of Worcester, Massachusetts, and Waukegan, Illinois.

That is all I know of that were in the barbed wire business in that period.

Q. Did you mention the Baker Wire Company of Rockport, Illinois?

A. No. That is one I did not remember, but I remember they were in the business, because I used to make square wire for them. They had the strand square, so the barb would not turn. Yes; that is right. I have made wire for them. It is so long ago that I cannot very well remember all of these different things. There were more than that.

Q. Did you mention the Consolidated Barbed Wire Company of Lawrence, Kansas?

A. Yes. I gave it the name of the Lawrence Wire Company. That is the Hendley Company. I sold him his first car of wire.

Q. How about the Newburgh Wire Nail Company, of Newburgh, New York?

A. I guess they were under the Kilmer's. That was when the Kilmer's had it. I think they were making barbed wire in that period. They failed, afterwards.

Q. You mentioned Roebling?

A. Yes, sir.

Q. Do you know to what extent Roebling was making barbed wire?

A. I think to a very limited extent. I sold Mr. Roebling his first barbed wire machine in St. Louis, many years ago.

Q. When was that?

A. Oh, that was about 1880.

Q. Were they making barbed wire, so far as you know, in 1899?

MR. REED: That is not what you asked him.

MR. DICKINSON: I am asking him that now.

A. In 1899?

By MR. DICKINSON:

Q. Yes, 1899.

A. Yes, sir.

Q. Do you know to what extent?

A. No. I think to a very limited extent.

Q. How about 1898; were they making barbed wire then?

A. Oh, yes. Bought a barbed wire machine from me in 1880.

Q. I am asking, though, as to what extent they were making it in 1898?

A. I do not think they went into it to a very great extent. They had more important products.

Q. What is their main product?

A. Copper wire and rope wire.

A. What purposes is that used for?

A. Trolley lines and other purposes. The copper is used for telegraph wire.

Q. Is it used for the same purposes as barbed wire?

A. Oh, no.

Q. It is a different product?

A. An entirely different product.

Q. You have mentioned, in answer to my question, so far as your memory goes, those concerns that made barbed wire at any time within the period from 1890 to 1899. That is correct, is it?

A. Yes, sir.

Q. Of those concerns that were making barbed wire in the United States, at the time the American Steel & Wire Company of New Jersey was formed, please state what proportion went under the control or were consolidated by the American Steel & Wire Company of New Jersey.

MR. REED: Will you ask him first whether he knows the proportion? Of course you do not want him to guess at it.

(The stenographer repeated the question as above recorded.)

MR. DICKINSON: I will modify the question.

By MR. DICKINSON:

Q. Of those concerns that were making barbed wire in the United States at the time the American Steel & Wire Company of New Jersey was formed, do you know which went under the control of the American Steel & Wire Company at its formation? I do not ask you to name them, but

if you know which they were. I am not calling for the names, but am asking generally if you know which ones went under that company. I do not know that you understand me?

A. Yes, I understand you. I do not think I can answer that question.

Q. What concerns of any importance making barbed wire at that time in the United States did not come under the control of the American Steel & Wire Company at the time it was formed?

MR. REED: Of course, if Mr. Fitch knows.

MR. DICKINSON: I am asking him what he knows.

A. I cannot answer that question either.

By MR. DICKINSON:

Q. To what extent did the American Steel & Wire Company at its formation get control of the business of barbed wire manufacturing in the United States?

MR. REED: Objected to for the reason that the witness has just stated that he does not know what companies went in and what companies did not go into the American Steel & Wire Company.

THE WITNESS: That objection is hardly correct, "because he does not know what companies went in." He does not know some of the companies that went in, but the way the question was put to me by the Judge was whether I could give all the companies.

MR. REED: I am much obliged for that suggestion. I will restate the objection. Objected to for the reason that the witness has stated that he cannot name all the companies that went into the American Steel & Wire Company, nor can he specify all the companies which did not go in; and therefore, on Mr. Fitch's own statement, he is manifestly unable to state the percentage of capacity which was taken into the American Steel & Wire Company.

By MR. DICKINSON:

Q. Mr. Fitch, state, so far as you know, what concerns that were manufacturing barbed wire in the United States

were taken under control or combined by the American Steel & Wire Company of New Jersey when it was formed?

MR. REED: Objected to because, in answer to the same question, the witness stated that he had not sufficient knowledge to answer the question accurately.

MR. DICKINSON: I am asking him if he knows; I am asking him what he remembers?

MR. LINDABURY: I take it that the question asks for the names of those he remembers. Am I right?

MR. DICKINSON: So far as he knows; yes, sir.

(The stenographer repeated the question as above recorded.)

A. Washburn & Moen, of Worcester, Mass., and Waukegan, Ill.; Iowa Barbed Wire Company of Allentown, Pa.; Oliver Wire Company of Pittsburgh; Braddock Wire Company of Rankin; Lambert & Bishop, Joliet, Ill.; Ellwood & Glidden, of DeKalb, Ill. There are other names, other parties who may have gone in at that time or gone in later, but I am trying to confine myself to that period. That is what bothers me.

Q. What concerns can you name from memory which were making barbed wire at that time and which did not go under their control?

A. I do not know. Of course some of them may have gone in that did not go in at that time, and I cannot make the division there.

Q. Can you name any, according to your recollection, that did not go in at that time?

A. No, I cannot. Confining myself to that period, I cannot do that. I know they all went in afterwards, but who went in and who did not go in at that time I cannot recollect.

Q. It is the particular period that you are uncertain about?

A. Yes, sir. I cannot commit myself about that.

Q. State to what extent at its formation or shortly afterwards, the American Steel & Wire Company acquired control of the barbed wire production of the United States.

MR. REED: That is objected to as calling for a conclusion.

MR. LINDABURY: How can the witness know?

THE WITNESS: I think it controlled nearly—

MR. DICKINSON: Wait a moment. I think it is perfectly right to enter any objection you want to on the record. Do you intend to have that go on the record, Mr. Lindabury?

MR. LINDABURY: I made the objection and addressed it to you.

MR. DICKINSON: I understand, but it goes to the ear of the witness.

MR. LINDABURY: I will make my objection on the record. It is a subject about which the witness cannot have information. I object because the question calls for speculation and an answer about which the witness cannot know.

MR. DICKINSON: Have you finished your objection?

MR. LINDABURY: Yes.

MR. DICKINSON: Please read the question.

(The stenographer read the question as follows:)

“Q. State to what extent at its formation or shortly afterwards the American Steel & Wire Company acquired the control of the barbed wire production of the United States.

“A. I think it controlled nearly—”

By MR. DICKINSON:

Go ahead with your answer.

A. I think it controlled nearly the whole output of the barbed wire of the United States through a barbed wire pool that was formed some time afterwards in Chicago.

Q. I am not asking you about its control through a pool. If the pool had any concerns in it that were not owned or controlled immediately by the American Steel & Wire Company of New Jersey, I do not care for an answer to that question. I ask you to please answer the question and confine it to its control acquired by its combination of various concerns under one company.

MR. REED: Objected to for the same reasons that were stated as objections to the last question.

A. I cannot tell what concerns passed absolutely into the control of the American Steel & Wire Company. They might

have had agreements, but whether they bought those concerns out, I am not familiar with that.

By MR. DICKINSON:

Q. You have said something about control through a pool. Please state more fully the facts as you may know them in regard to that.

A. I remember that a pool was formed of which John W. Gates and William Edenborn, the late George Douglas, Isaac Ellwood, George T. Oliver and the Cincinnati Barbed Wire man, Lamson, were members; and they had their regular meetings, the barbed wire manufacturers, all of those except those who were licensed. That was all prior to this American Steel & Wire Company.

Q. So when you answer about control through a pool, you are referring to a time prior to the formation of the American Steel & Wire Company?

A. Yes, sir.

Q. My question to you was addressed to a period subsequent to the formation of the American Steel & Wire Company of New Jersey, and was in substance to what extent by that combination and subsequent acquirement or control by that company of plants it acquired the barbed wire production of the United States.

MR. REED: Objected to for the reasons stated, when the same question was asked last.

A. After the Columbia Wire Company had purchased all the patent rights of Washburn & Moen, the American Steel & Wire Company then controlled the barbed wire industry of this country. There were no outsiders manufacturing barbed wire, outside of the American Steel & Wire Company, without being under its control, that I know of, because they purchased all the patents owned by Washburn & Moen and Isaac L. Ellwood.

Q. When were those purchases of patents made, that you refer to?

A. I cannot give the exact date, but it was prior to the formation of the American Steel & Wire Company.

Q. Were Oliver & Snyder manufacturing barbed wire prior to the formation of the American Steel & Wire Company of New Jersey?

A. Mr. Snyder was never identified with the barbed wire company. Oliver & Snyder were principally in the ore business. The Oliver Wire Company—George T. Oliver was in interested in barbed wire, but not Snyder.

Q. Where was that company situated?

A. Over on the South Side, corner of Ninth and Bingham.

Q. Were they making barbed wire prior to the formation of the American Steel & Wire Company of New Jersey?

A. Yes, sir.

Q. How long did they continue to make it?

A. The plant was dismantled in 1903, I think.

Q. Were they making it at the time of the formation of the American Steel & Wire Company of New Jersey?

A. Yes, sir.

Q. Did they continue beyond that time?

A. Yes, sir.

Q. Up to what period?

A. It was dismantled in 1903.

Q. Prior to the sale by the Pittsburgh Wire Company to Gates and associates, with what concerns did the Pittsburgh Wire Company come in interstate competition in the sale of wire rods?

A. Wire rods?

Q. Yes.

A. Washburn & Moen; Cleveland Rolling Mill Company; Oliver & Roberts Wire Company; Illinois Steel Company; and I could name others, but while they were in the rod business, they were not exactly competitors, because they used a good deal of their material for their own works. They were the ones really that were on the market.

Q. On the market and selling in interstate commerce?

A. Yes.

Q. When the American Steel & Wire Company was formed, what wire rod mills were then in existence in the United States, if any, which that company did not acquire the control of?

A. Just prior to the—

Q. No, I mean at the time of its formation—

A. At the time of the formation of the American Steel & Wire Company?

Q. Yes; if there were any that continued independent after that formation, what were they?

MR. LINDABURY: Of course, of his own knowledge?

MR. DICKINSON: Yes.

A. Of course that is what I am trying to cudgel my mind about. It is so long since I have been in the business that I have to stop and think. John A. Roebling's Sons Company. I cannot think of any others that they did not control. They controlled nearly all the others.

By MR. DICKINSON:

Q. Did John A. Roebling's Sons Company make wire rods for sale in the market or for use in their own manufacture?

A. Their sale to the market was very limited. They used it mostly in their own products.

Q. At the time you sold your interest in the stock of the Pittsburgh Wire Company to Mr. Gates and others, state whether or not you and other stockholders of that company entered into any agreement to keep out of the wire business and, if so, who entered into that agreement, and what was it.

MR. REED: Objected to, because if the agreement itself is in writing, that would be the best evidence.

MR. COLTON: I served notice on you to produce that agreement.

MR. LINDABURY: The agreement was not made with us.

MR. COLTON: I think the agreement would be with the American Steel & Wire Company.

By MR. DICKINSON:

Q. Answer the question.

A. What was the question?

(The stenographer repeated the question as above recorded.)

A. Most of the stockholders, including myself, signed an agreement to keep out of the business for ten years.

By MR. DICKINSON :

Q. Where is that agreement?

A. The American Steel & Wire Company has it. At least, they had it, and I suppose they have it yet. It would come into possession of the American Steel & Wire Company through the agreement having been made between the stockholders of the Pittsburgh Wire Company on the one part and John W. Gates and Isaac L. Ellwood, of the other part, and they were prominent factors in the American Steel & Wire Company.

Q. And you have no copy of it?

A. No.

Q. You have no original?

A. No.

Q. What stockholders were parties to that agreement besides yourself?

MR. LINDABURY: Objected to as calling for the contents of a written document.

MR. DICKINSON: That only calls for those who made the contract.

MR. LINDABURY: I stand by the objection.

MR. DICKINSON: Of course.

A. Ten or twelve stockholders. Only three or four were prominent stockholders. The rest were some of those up in Braddock. When I first started that company I issued stock to some of the workmen and they were stockholders. So they were minor stockholders. Not more than twelve, including them.

(Whereupon a recess was taken until 2:00 o'clock p. m.)

AFTER RECESS.

The hearing was resumed pursuant to the taking of recess.

THOMAS W. FITCH,

the witness under examination at the taking of recess, resumed the stand for further

DIRECT EXAMINATION, (Continued.)

By MR. DICKINSON:

Q. Prior to the formation of the American Steel & Wire Company from whom did the Pittsburgh Wire Company buy billets?

A. The Carnegie Steel Company, Pennsylvania Steel Company, and Jones & Laughlin, principally.

Q. How about Schoenberger?

A. I omitted them. Yes, Schoenberger & Company. We bought largely from Schoenberger.

Q. From whom did you buy mainly?

A. Schoenberger and Carnegie.

CROSS EXAMINATION,

By MR. REED:

Q. You spoke of a contract that you and Mr. Bindley made not to go into the barbed wire business again. You know, do you not, that Mr. Bindley has been in the barbed wire business very extensively through his interest in the Pittsburgh Steel Company?

A. Yes, sir.

Q. And that since about 1902?

A. Yes, sir.

Q. So that that agreement did not, to the best of your recollection prohibit—

MR. DICKINSON: I did not ask you about prohibiting him.

MR. REED: I understood it that way.

MR. DICKINSON: The question as to prohibiting him is one thing—

THE WITNESS: (Interrupting) Counsel, I beg pardon, but Mr. Bindley was not a stockholder at the time the Pittsburgh Wire Company sold out. Therefore there was no occasion for him to sign anything.

By MR. REED:

Q. Then he did not sign an agreement?

A. He was not in the company at that time.

Q. Then if the inference can be drawn from your testimony that he was in the company at that time, that is a mistake?

A. Yes, sir. The only time his name would come in there was when an agreement was entered into between Mr. Gates and Mr. Bindley and myself to sell those barbed wire machines and discontinue the manufacture of barbed wire.

Q. Did Mr. Bindley sign that?

A. I think he did. Mr. Willis McCook was our counsel at that time, and the arrangement was made with Mr. Bindley and Mr. Willis McCook.

Q. What companies had rod mills in 1899?

A. The Rankin plant; the Braddock plant—

Q. That is the Rankin plant of the Braddock Wire Company?

A. The Braddock Wire Company. That is its old name. It was Consolidated Steel & Wire at that time.

Q. The Braddock plant of the Pittsburgh Wire Company?

A. Yes, sir; the Braddock plant of the Pittsburgh Wire Company. The John A. Roebling's Sons Company, Washburn & Moen Company, of Worcester, Massachusetts, and Waukegan, Illinois; the Cleveland Rolling Mill Company, of Newburg, Ohio; the Illinois Steel Company, of Joliet, Illinois; Dillon-Griswold Company of Sterling, Illinois. What years?

Q. At the time of the formation of the American Steel & Wire Company.

A. Oliver & Roberts Wire Company, of Pittsburgh, Pennsylvania.

Q. You mean Oliver & Snyder, do you not?

A. No, sir; counsel got that mixed about Snyder. Snyder has not been in this business at all. There are two different Olivers, too. Let this be outside the record. The Oliver in the Snyder firm is Harry Oliver. George T. Oliver is the one identified with the rod business. The firm name was Oliver & Roberts. That means George T. Oliver.

Q. What others?

A. There may have been others, but I cannot recall them just now. You know that has been a long time ago.

Q. The American Steel & Wire Company did not get the rod mill of the Illinois Steel Company, did it?

A. Not until afterwards, no.

Q. Did it ever get it?

A. Yes. I think those plants are controlled by the American Steel & Wire Company. They have rod mills and wire mills there. It was—

Q. (Interposing.) It is all in the United States Steel Company now?

A. But your question is what subsidiary company is that plant in?

Q. And until the United States Steel Corporation was formed the American Steel & Wire Company had no ownership or control over the Illinois Steel Works rod mill, had it?

A. For one reason I cannot answer that question either affirmatively or negatively. That is for the reason that the Illinois Steel Company had John W. Gates as President about that time, and before the formation of the American Steel & Wire Company those rod mills and wire mills were running. Yet it might have been under some arrangement with the wire companies of which Gates was the head.

G. A. STEINER,

a witness produced by and on behalf of the United States,
being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Steiner, where do you live?

A. Pittsburgh.

Q. What is your age?

A. Sixty-eight years.

Q. Were you connected with the Schoenberger Steel Company, and if so, during what period and in what capacity or capacities?

A. I was connected with the Schoenberger Steel Company at the time they sold out and many years previous thereto.

Q. Were you a stockholder?

A. I was.

Q. Were you an officer of the company?

A. I was.

Q. State whether or not you were familiar with its operations and sales.

A. Quite familiar, yes.

Q. What did the works of that company consist of? I mean in a general way.

A. (Referring to memorandum.) I will give it to you. We had a plate mill, blooming mill, converters, skelp mill, and a horseshoe mill.

Q. Did you have any furnaces?

A. Yes; blast furnaces.

Q. How many blast furnaces?

A. Two.

Q. Did your company have any interest in any coal companies or coal properties?

A. We had.

Q. What was it?

A. We were interested in coking, and in addition to that we had a coal field at Latrobe.

Q. Did you own those properties directly, or through an interest in a subsidiary company?

A. One of the properties directly, and the other through an intermediary company.

Q. What was the name of the company?

A. The Juniata Coal Company.

Q. What was the annual capacity in gross tons of finished products of the Schoenberger Steel Company at the time it was sold?

MR. REED: May I suggest that that question might confuse the witness or anyone reading the testimony? If you will state it in steel, which I think you want, it would be easier for him to answer.

MR. DICKINSON: Well, I will ask it that way—

A. Our total tonnage was from 200,000 to 225,000 tons.

By MR. DICKINSON:

Q. Gross tons?

A. Gross tons. Part of that tonnage we used in our own plant, and part of it we sold as raw material to others.

Q. What did you produce?

A. We produced steel blooms and billets, plates, and sheets, skelp, horseshoes, horseshoe toe calks, and pig metal.

Q. Slabs?

A. Slabs come under the head of steel blooms and billets.

Q. In the sale of plates state with what concerns or companies the Schoenberger came in competition in interstate commerce, and in what character of articles.

A. In the matter of plates we came in competition with the Otis Iron & Steel Company, Worth Brothers, Luce & Penrose, Carbon Steel Company, Jones & Laughlin, Carnegie Steel Company, Illinois Steel Company, and there was one other, the Glasgow Iron & Steel Company.

Q. The question was whether you came in competition with them in interstate commerce.

A. We did.

Q. Did or not Schoenberger & Company sell plates in the Chicago and Pittsburgh Districts?

A. They did.

Q. In general competition throughout the country also?

A. Yes, sir.

Q. With what concerns, at the time the Schoenberger Company was sold did it come in competition in interstate commerce in the matter of the sale of billets?

A. Carnegie Steel Company, Oliver & Snyder, Illinois Steel Company, Jones & Laughlin, Shenango Steel Company and the Ohio Steel Company.

Q. If the Schoenberger Company, either its property or the control of the stock of that company, was sold, state when it was sold, and to whom?

A. The Schoenberger property was sold in the spring of 1899, and it was sold to the American Steel & Wire Company.

Q. At what price?

A. At a price of \$3,600,000.

Q. State whether or not any of the officers or stockholders of that company entered into a contract at that time, or about that time, and as a part of that transaction, with the vendees, by which they obligated themselves to stay out of the character of business that was being carried on by the Schoenberger Company; and, if so, for what period of time, and in what territory.

A. The three officials of the company—

MR. REED: Objected to as incompetent and irrelevant and as not the best evidence of the contents of a written agreement, if it was a written agreement.

MR. COLTON: In this connection I will call attention to the fact that we have served notice to produce that contract.

MR. LINDABURY: On whom?

MR. COLTON: On you, Mr. Lindabury.

MR. LINDABURY: I do not remember it.

(Upon request the pending question was repeated by the stenographer as follows:)

“Q. State whether or not any of the officers or stockholders of that company entered into a contract at that time, or about that time, and as part of that transaction, with the vendees, by which they obligated themselves to stay out of the character of business that was being carried on by

the Schoenberger Company; and, if so, for what period of time, and in what territory.”

A. They did, and for a period of ten years.

By MR. DICKINSON:

Q. And who entered into that?

A. The president—

Q. Just name them.

A. President Charles L. Fitzhugh; first vice president John Z. Spear; second vice president, G. A. Steiner.

Q. The last named gentleman is yourself?

A. Yes, sir.

Q. What territory did that contract embrace?

A. Pretty nearly all the United States, with the exception possibly of Florida and Arizona.

Q. State whether or not, so far as you know, at that time any business of that character was being carried on or has been carried on in either of those states?

MR. LINDABURY: I object. The witness does not say those were excepted. He said it was possible that they were excepted.

MR. DICKINSON: I will ask you whether or not your recollection is that those states were excepted?

THE WITNESS: I think they were.

By MR. DICKINSON:

Q. And the balance of the United States was embraced in it?

A. Yes.

Q. Now, answer the question whether or not at that time, or previous thereto, you had ever known anybody carrying on that character of business in either of those states.

A. I had not.

Q. Was that a written contract?

A. It was incorporated in the contract.

Q. You have been asked to look for it?

A. No, sir.

Q. Have you it in your possession?

A. No, sir; I have not.

Q. Do you know where it is?

A. No, sir.

Q. How long has it been since you saw it?

A. I don't think I saw that contract. I do not think I have seen it since it was drawn up and signed by the parties to the transaction. I think that is the last I saw of it.

Q. Do you know where that is now?

A. I think that contract is probably in the possession of the United States Steel Corporation.

MR. LINDABURY: I object to speculations.

MR. DICKINSON: Well, he said he does not know where it is. That is all.

MR. LINDABURY: I renew my objection as to the testimony in regard to this contract, on behalf of all the defendants except the American Steel & Wire Company. I except them on the statement of counsel that they were served with a notice to produce it. The Steel Corporation never had possession of it. I do not know whether the American Steel & Wire Company ever had it or not.

CROSS EXAMINATION,

By MR. REED:

Q. You have not been connected with the Schoenberger Steel Company since it sold out in 1899, have you?

A. I have not.

MR. REED: I do not think we have any further cross examination.

EDMUND W. MUDGE,

a witness produced by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. COLTON:

Q. When did you go into business?

A. I started in business in 1887.

Q. In what business were you engaged during the period from 1895 to 1901?

A. I was connected with the firm of Charles E. Pope & Company, dealers in iron and steel.

Q. During the period 1895 to 1899, from what company did you purchase sheet bars?

A. 1895 to 1899, I purchased sheet bars from the Ohio Steel Company, Bellaire Steel Company, Junction Iron Company. I think that was all.

Q. State whether or not you purchased sheet bars from the Bellaire Steel Company.

A. Yes; I mentioned that company.

Q. The Columbus Iron & Steel Company?

A. No, I never bought any from Columbus.

Q. State whether or not you purchased any sheet bars from the Shenango Valley Steel Company.

A. I do not think we ever did.

Q. Were those companies, from which you state you purchased sheet bars, in competition with one another in interstate commerce?

A. Yes.

Q. What is the distinction between sheet and tin plate bars?

A. There is hardly any difference. A tin bar is perhaps a little lighter than a sheet bar. All are rolled on the same mill. The steel is about the same quality.

Q. After the formation of the National Steel Company did you experience any difficulty in respect of the purchase of sheet bars or tin plate bars; and, if so, what difficulty?

A. After the formation of the National Steel Company there were not many bars to be sold or purchased. They had practically all the trade, outside of the Illinois Steel Company and the Carnegie Steel Company.

Q. Why could you not get it from the Illinois Steel Company or the Carnegie Steel Company?

MR. LINDABURY: Did he say he could not? He has not said he could not, yet.

MR. COLTON: I wanted to know.

MR. LINDABURY: Then you had better ask him if he could not?

MR. COLTON: I will ask him that, then.

THE WITNESS: As to the Illinois Steel Company, I do not think we had any business that occasioned us to ask them for any bars. The Carnegie Steel Company had none for sale, I believe.

By MR. COLTON:

Q. Do you know whether they were selling tin plate and sheet bars at that time?

A. Yes, I think they were selling to the American Tin Plate Company and the American Sheet Steel Company.

Q. And had none for sale to anyone else?

A. I do not think they had any for sale for any new mills.

Q. What do you mean by "new mills?"

A. Any new mills that might want to start up at that time. It was rather difficult to secure sheet bars.

Q. Before the formation of the American Sheet Steel Company, and after the formation of the American Tin Plate Company, did you purchase any sheet and tin plate bars from any company?

A. After the formation of the American Tin Plate and before the formation of the Sheet Steel Company?

Q. Yes.

A. I think we did.

Q. From whom did you purchase them?

A. We bought some bars from Banning, Cooper & Company. But whether that was before the American Sheet Steel Company was formed or right afterwards, I could not answer.

Q. Was there any special regulation in connection with the purchase of those sheet bars or tin plate bars at that time, and, if so, what was it?

MR. LINDABURY: Objected to as irrelevant. Special regulation by these sellers?

MR. COLTON: Yes.

MR. LINDABURY: Independent dealers?

MR. COLTON: I will show the connection later on.

MR. LINDABURY: Objected to as immaterial and irrelevant.

THE WITNESS: I think we had to specify where the bars were to go.

By MR. COLTON:

Q. What do you mean by that?

A. We had to say whom they were for.

Q. Was it generally understood what was the reason for that regulation at that time?

MR. LINDABURY: I object to that as irrelevant and incompetent.

A. If I remember correctly, they did not want bars to go to any one making tin plate.

By MR. COLTON:

Q. Will you name the members of the firm of Banning, Cooper & Company, as far as you can?

A. I do not believe I can.

Q. Can you tell me whether Charles Guthrie was in that firm?

A. I think he was at one time.

Q. Do you know whether he was in the firm at that time or not?

A. I could not say that positively.

Q. State what products you were generally familiar with the purchase of and sale of at that time.

A. Black and galvanized sheets, pipe, merchant bars, tin plate, billets and sheet bars. Tin plate was perhaps our heaviest business.

Q. What companies, other than dipping plants, were left out of the American Tin Plate Company, if any?

A. I think Whittaker & Company of Wheeling.

Q. Any others?

A. I am not so sure whether Lalance & Grosjean was in operation at that time or not.

Q. During the period from 1895 to 1899 from what different companies did you purchase steel bars?

A. Merchant bars?

Q. Yes.

A. The Junction Iron Company; Aetna Standard; Jones & Laughlin; Union Iron & Steel Company; J. Painter & Sons.

Q. From the Cleveland Rolling Mills?

A. Yes, sir; I think we did.

Q. From the Oliver Iron & Steel Company?

A. Yes.

Q. State whether or not those companies were in competition with one another in interstate commerce.

A. They were all in competition.

Q. During the period from 1895 to the formation of the American Sheet Steel Company in 1900, from what different sheet companies did you purchase common black sheet and galvanized sheets?

A. Black and galvanized sheets we bought from the Scott-dale Iron & Steel Company, the Old Meadow Rolling Mill Company, Struthers Iron & Steel Company, Falcon Iron & Nail Company, Cambridge Iron & Steel Company, New Philadelphia Iron & Steel Company, Reeves Iron Company, Whittaker Iron Company, Dennison Rolling Mill Company, Hyde Park Iron & Steel Company, I think. I think that is about all. There may have been a few others.

Q. State whether or not you purchased any common black sheet and galvanized sheet from the Aetna Standard Iron & Steel Company.

A. Yes, I think we did.

Q. State whether or not you purchased any such products from the Cincinnati Corrugating Company.

A. Yes, we did.

Q. Can you name any other companies from which you purchased such products during that period?

A. I think that is about all we did business with.

Q. State whether or not those were the principal manufacturers of common black sheet and galvanized sheets at that time.

A. There was another very large concern—the Apollo Iron & Steel Company. We did no business with them, however.

Q. That should be included in the list of the important concerns?

A. Yes, they were the largest of all. We did not do any business with them, however.

Q. Can you name any other large companies, or important companies?

A. There were a few others, but I think that list covers the most important.

Q. State whether or not those companies were in competition in interstate commerce with one another.

A. They were.

Q. In 1902 in what business were you engaged?

A. In the same business.

Q. Did you have occasion during that period to purchase sheet and tin plate bars from any company or companies?

A. I started to build the Pope Tin Plate Company in 1901, and it was completed in July, 1902. It started up that month. We bought tin bars about that time, perhaps a little earlier than that.

Q. Name the company from whom you purchased the tin plate bars at that time.

A. We bought from the Sharon Steel Company and the La Belle Iron Works.

Q. Was there any special difficulty in securing tin plate bars during the period from 1899 to 1902?

A. Yes, there was considerable difficulty in securing bars during that period. I might say during most of that period it was very difficult to secure any kind of semi-finished material such as sheet bars or billets. The demand for steel products at that time was very heavy.

Q. Have you been engaged in the coke business?

A. Yes, sir. I am in the coke business now.

Q. From what district do you get your coke?

A. From the Connellsville district; upper and lower regions.

Q. Are you a general dealer in coke?

A. We are a general dealer in coke, pig iron, steel, scrap.

Q. Do you purchase coke from the West Virginia district?

A. Not very much.

Q. State whether or not there is any special reason why you do not purchase coke from that region, and if so, what is that reason?

MR. LINDABURY: Objected to as irrelevant and immaterial.

By MR. COLTON:

Q. Answer the question, please.

A. The principal reason is on account of the freight rates in this district, and also most of the grades of West Virginia coke are not suitable for the manufacture of steel-making irons in what we call the Pittsburgh and Valley districts, where our heaviest trade is.

MR. COLTON: That is all.

CROSS EXAMINATION,

By MR. LINDABURY:

Q. Are you acquainted with the Klondike district?

A. Yes, sir.

Q. There is a good deal of coking coal there, is there not?

A. There is a great deal of coke made in the Klondike. We call that the lower district.

Q. Is there not good coal found there?

A. Oh, yes.

Q. And a great deal of it?

A. Yes.

Q. And that district extends over into West Virginia, does it not?

A. Well, I would not say it does. I think good coking coal extends over into Green County, across the river into Green County.

Q. That is Green County, Pennsylvania, is it?

A. Yes; but I doubt whether that same grade of coal ex-

tends over into West Virginia. I think it is too high in sulphur.

Q. You say you doubt it. Have you exact information about it, or is that merely your opinion from general knowledge?

A. My experience in that section of West Virginia would show high sulphur coals.

Q. Now to go back to the earlier days, the National Steel Company was formed for the particular purpose of supplying the needs of the Tin Plate Company, was it not?

MR. COLTON: I object to that.

MR. LINDABURY: And by the principal owners of the Tin Plate Company?

MR. COLTON: Just a moment, before you answer that question. I object on the ground that it has not been shown that the witness was in the confidence of the promoters of the National Steel Company, as to the purpose for which that company was formed.

By MR. LINDABURY:

Q. I will modify that question by asking you if it was not general knowledge, if it was not generally known that such was the case?

A. It was the understanding in the trade that it was organized for about that purpose.

Q. Before that, the Tin Plate Company was buying its raw material generally in the market, was it not?

A. Before the Tin Plate Company was formed, the different tin plate mills bought from the different steel companies manufacturing tin bars or billets.

Q. That was before the Tin Plate Company was formed?

A. Yes.

Q. And after the Tin Plate Company was formed, and until the National was formed, that practice was continued more or less, was it not?

A. I think when the Tin Plate Company was formed, all the individual members or all the individual companies that went into the Tin Plate Company had contracts for their steel supply running to a more or less extent, and I think that those

contracts likely ran until the National Steel Company was formed.

Q. Anyhow, after the National Steel Company was formed, it furnished the raw material to the Tin Plate Company, did it not?

A. Yes; that is my understanding.

Q. I think that it was those practices of finishing mills arranging for their own supply of raw material that led to the lessening of the trade in semi-finished products that you have referred to, was it not?

A. It was the starting of the new way of doing business of finishing mills, and endeavoring to supply themselves with their own source of supply of raw material.

Q. Yes, and that was very general among the steel makers, was it not?

A. Well, it has been very general since that.

Q. Your correction is quite right. That was the start of it, and it became very general?

A. Yes, sir.

Q. So that nearly all the large steel manufacturers who have finishing mills have acquired facilities for supplying their own raw material, have they not?

A. Well, the finishing mills, as they grew larger, endeavored to protect themselves by supplying their own raw materials, and the raw material mills, in order to refrain from selling raw materials, increased their finishing capacity.

Q. Yes; so that that process of integration has gone on rapidly?

A. Yes.

Q. And it started about the time you mention?

A. It started about that time, yes.

Q. It has become very general now, has it not?

A. Yes, sir; it is very general.

Q. And that has lessened the market, in the way you mentioned, for semi-finished products? It has lessened the jobber's market? It has made it more or less difficult at times for the jobber to get semi-finished products, has it not?

A. I have always found, as a dealer, that there is no trouble, or no very great trouble, in securing semi-finished

materials, except in severe market conditions like we have at the present time. For instance, we have a market condition today that will no doubt continue for some months to come, so that it is almost impossible to get either sheet bars or billets. We call those semi-finished materials.

Q. What is the character of that market? You call it severe?

A. The plants manufacturing sheet bars and billets are so badly congested with business that it is practically impossible for them to take on any more tonnage until they increase their capacities. Their capacities can hardly be increased by new steel plants, or additions to their present plants, much before next July.

Q. It means, then, that the concerns are not able to supply their own needs in semi-finished products, does it not?

A. I do not think any steel plant can even supply their own needs today on semi-finished products, let alone taking care of outside trade.

Q. That was the situation in 1901 and 1902, that you referred to a while ago, as a time when it was difficult to get semi-finished products, was it not?

A. Part of that time, yes.

Q. The time that you alluded to, whenever it was, as being a difficult time to get semi-finished products; that was the occasion of it, was it not?

A. Partly so.

Q. You made some allusion to such a condition, in your direct examination. What you referred to was, as I understood you, the condition of what we call boom times, such as are now on?

A. That was part of the reason. Then, I rather think that the American Tin Plate Company and the American Sheet Steel Company had some arrangements with the two larger concerns outside of the National Steel Company in reference to sheet bars and billets.

Q. That is your thought about it?

A. Well, it was generally pretty well understood.

Q. I must object to that. You have not any knowledge on the subject, have you?

MR. COLTON: I think he should be allowed to state——

MR. LINDABURY: I object to the answer as to the witness' thought or opinion. If he has any knowledge, I will take it. I do not want his suspicions, or opinions. I have not asked for them.

MR. DICKINSON: You have a perfect right to object. The answer goes down, of course.

MR. LINDABURY: No. It is not an answer to my question.

MR. DICKINSON: Certainly it has gone down, I suppose. .

MR. LINDABURY: Oh, yes, of course; and what I have said is down and what you have said is down. It is all down.

By MR. LINDABURY:

Q. What was the name of this firm that you said wanted to know what you were going to do with the semi-finished products if you got them, or with the sheet or tin bars, if you got them?

A. Banning, Cooper & Company.

Q. Where are they located?

A. In Pittsburgh.

Q. What is their business? Are they manufacturers?

A. No; they are dealers, the same as we were.

Q. They are dealers?

A. Yes.

Q. Jobbers?

A. Jobbers in raw materials or semi-finished materials.

Q. And you were a jobber in raw materials?

A. Yes.

Q. And before those jobbers sold to another firm of jobbers, they wanted to know what the latter firm of jobbers was going to do with the materials?

A. Yes.

Q. I see. I suppose you are interested, yourself, in that way, are you not?

A. Very much so, sometimes.

Q. Speaking of your source of supply after the National Steel Company was formed, the Carnegie Company made bars, did it not?

A. Yes, sir.

Q. Did you try to buy them?

A. I do not believe we ever did, directly.

Q. And they were the largest manufacturers of bars then, were they not?

A. They were supposed to be.

Q. The Illinois Steel Company was the next largest, was it not?

A. Next to the National Steel, or next to the Carnegie?

Q. Next to the Carnegie.

A. They had one mill on which they could roll bars, yes. They would be, next to the Carnegie, leaving out the National Steel.

Q. Was the National Steel larger?

A. In sheet bars; yes, sir.

Q. I suppose they were manufacturing for the use of the Tin Plate Company?

A. And the Sheet Steel Company; yes, sir.

Q. And the Tin Plate Company was taking their whole product, was it not?

A. I could not answer that.

Q. The Illinois Company, however, was selling, was it not?

A. The Illinois Company was selling some tonnage to the tin plate people, I believe.

Q. It was selling in the general market, too, was it not?

A. I do not think so.

Q. Are you sure?

A. I do not think they were.

Q. I said, are you sure?

A. It is pretty hard to be sure of anything.

Q. Did you apply to them for your supply?

A. I stated before that we did not have any occasion to negotiate with the Illinois Steel Company in that district for any bars.

Q. I believe you did say so. Then that means that you never applied to them?

A. Yes.

Q. You did not need to?

A. No, sir.

Q. I think you said you have continued to deal in steel products down to the present time?

A. Well, I was connected with Charles Pope & Company to May, 1903. Then I was Vice President of the La Belle Iron Works at Steubenville, from 1903 to November, 1905. From November, 1905, to the present time, I have been in business for myself.

Q. You have been in business dealing in steel products?

A. Dealing in steel products; raw materials.

Q. As a jobber?

A. As a jobber or dealer.

Q. I do not know whether that is the name you employ.

A. Dealer.

Q. Where is the La Belle Iron Works?

A. Steubenville.

Q. And when were they organized?

A. I think their original charter was 1848 or 1849. They manufactured cut nails in Wheeling for a great many years, until they built a tin plant, which was sold out to the American Tin Plate Company. Then they bought property at Steubenville, Ohio, and started their present plant.

Q. What was the present plant erected for?

A. The line of goods they manufacture, you mean?

Q. Yes.

A. They make billets and sheet bars, plate and skelp, pipe, sheets and pig iron.

Q. And did they do so while you were their secretary?

A. I was vice president.

Q. You were vice president and secretary also?

A. No, sir.

Q. You were vice president?

A. Yes, sir.

Q. They made those products during that time?

A. Yes, sir.

Q. And they are still doing it?

A. Yes, sir.

Q. Have they grown any since 1901?

A. Yes, sir.

Q. How much have they grown, in product?

A. The steel plant has practically all grown since that time; all the finishing mills have grown, with the possible exception of the cut nail mill, and a couple of small skelp mills.

Q. What is the tonnage now as compared with the tonnage in 1901?

A. Their steel tonnage I do not think was anything in 1901. It is between four and five hundred thousand tons now, I think.

Q. Has the growth been a steady one?

A. Yes; it has been regular.

Q. How large is the capital now?

A. I think their capital at the present time is about \$20,000,000.

Q. What was it in 1902?

A. In 1902?

Q. Or, we will say, in 1901.

A. I do not know exactly. They started to sell stock about that time, and their stock was increased from time to time.

Q. Did it practically begin with nothing, then, do you mean?

A. I think it began with a million dollars, if I am not mistaken.

Q. So that there has been a growth from a million to twenty millions in the capitalization, during that time?

A. Approximately, yes, sir.

Q. And has that company competed with subsidiaries of the Steel Corporation during the years since 1901?

A. Yes, sir; but you understand I am not an official of the La Belle Iron Works now. I cannot answer as to anything from 1905 to the present time.

Q. I see. Are you not a stockholder?

A. I am a stockholder, yes, sir.

Q. To a pretty large amount?

A. Yes, sir.

Q. So you are generally familiar with their business, are you not?

A. Yes, sir.

Q. I only want general information. You do, of your own

knowledge, know all that you have told us so far, do you not?

A. Yes, sir.

Q. As to their capacity and capitalization, etc.?

A. Yes, sir.

Q. I want to ask you whether or not during the time you were vice president, and since, so far as you know, you found the Steel Corporation a fair competitor, or found that they were guilty of unfair practices?

A. They have been very fair.

Q. From your experience in connection with that company, as well as your experience as a dealer in steel products, we should like your opinion as to what, if any, advantages, the Steel Corporation has over other manufacturers in carrying on its business.

MR. COLTON: I object to his stating his opinion. I have no objection to his stating the facts, if he knows them.

By MR. LINDABURY:

Q. Very well. It is a matter of fact, rather than opinion, anyhow.

You know the general business conditions well enough to know, as a matter of fact, what, if any, advantages the Steel Corporation has over its competitors, do you not?

A. Yes, sir.

Q. Please state them.

A. The principal advantage is the owning of their railroads from the ore fields to the Lakes, and from the lower Lake ports to Pittsburgh.

Q. Has it any other advantages?

A. It has a more or less advantage, possibly, in location.

Q. Any other?

A. Then the Steel Corporation has mighty good management.

Q. Then, in the quality of its management and the location of its plants and in its transportation facilities consist whatever advantages it has, you think?

A. Yes, sir.

Q. Are there any others?

A. I should say not.

Q. As to the management, we will not go into the details about that, because anybody can understand what you mean about that.

As to the location of its plants: Wherein consists that advantage?

A. Its plants are scattered around through a territory that is a large consumer of iron and steel and, by shipping from the nearest plants to points of consumption, it is enabled to save freights.

Q. And is that a considerable advantage to a steel company that has its plants located in that way?

A. I think it would amount to considerable, in the course of a year.

Q. Do you know where the plants of the Federal were before the Steel Company was formed—the Illinois Steel?

A. Yes, sir.

Q. Were they so located that the Federal or its subsidiaries could compete with the Pittsburgh District for the eastern trade?

A. No, sir; they could not.

Q. Were they so located that the subsidiaries could successfully engage in foreign trade?

A. I do not see how it would have been possible for them to have done so.

Q. Why?

A. They had a very heavy freight differential against them. I do not see how they could possibly do it.

Q. And was the Federal then well balanced up? That is, did it have finishing mills in proportion to its rolling and other mills?

MR. COLTON: I object, on the ground that the witness has not been shown to be familiar with whether its finishing mills were adequate to its raw material supplies.

MR. LINDABURY: Question withdrawn.

By MR. LINDABURY:

Q. You know, I suppose, do you not, what mills the subsidiaries of the Federal had?

A. That is a long time to remember back. I have a gen-

eral idea. Of course we always try to keep fairly posted on what other plants have.

Q. You seemed to me to be familiar with it, and therefore I asked you the question, perhaps without first showing, as I ought to have done, that you knew.

A. I could tell you the line of goods that they manufactured.

Q. I would rather not go into that detail. The gentlemen on the other side may do so, if they choose. We are in a hurry to get through.

Will you tell us, now, whether or not they had a fully balanced plant, or whether they were short in any lines?

A. I think they were short of finishing capacity. I believe they had an excess of raw material capacity.

Q. That was rather marked, was it not?

A. I think it was.

Q. This advantage in transportation to which you refer consists in their ownership of those ore-carrying roads?

A. Yes, sir. That is their great advantage.

Q. Excepting in these respects to which you have referred, are they or not on the same level or basis with the other large manufacturers?

A. They have no advantage over any of the other large steel manufacturers, other than what has been mentioned; principally their railroad freight advantages.

Q. Can you give us any example of the advantage that the Steel Corporation has or may have because of the scattered character of its plants?

A. We might take the Wheeling District: If some one in the Wheeling District wanted to buy sheet bars, they would be obliged to get prices from the two mills at Youngstown, Jones & Laughlin at Pittsburgh, the Cambria, the Lackawanna Steel, and the Corporation. If the Corporation got the business, they would simply deliver it from their Bellaire or Mingo plant, at a nominal rate of freight, whereas all the other plants would have to pay freight from \$1.05 to \$1.80.

Q. Are there many consumers of sheet bars in the Wheeling district?

A. Yes; that was a good district. I am simply giving

that as an example. The same way in Pittsburgh or any other points; Camden.

MR. LINDABURY: That is all.

RE-DIRECT EXAMINATION,

By MR. COLTON:

Q. You were asked concerning the purpose for which the National Steel Company was formed. Have you ever had any discussion with any one of the parties that formed that company as to the purpose for which it was formed?

A. I do not believe I could answer that. I do not think I can remember back that far, whether I did or not.

Q. You said it was formed for about the purpose of securing raw materials. Was it formed, also, for the purpose of tying up raw materials so that other parties could not get them?

A. Possibly.

MR. LINDABURY: The question is objected to because it calls for hearsay; and the answer is objected to because it seems to be a speculation.

By MR. COLTON:

Q. Are you as familiar with one of those purposes as with the other?

A. That is rather a hard question to answer.

Q. To the best of your understanding?

A. I think it was done for both purposes.

Q. Do you know whether anyone in the firm of Banning, Cooper & Company was closely associated in business with someone in the American Steel Hoop Company or the American Sheet Steel Company or the National Steel Company or the American Tin Plate Company—any one of those companies?

MR. LINDABURY: That is objected to as irrelevant.

THE WITNESS: I do not know anything about the business of Banning, Cooper & Company.

By MR. COLTON:

Q. Do you know about who were the partners, at various times?

A. I know Mr. Cooper and Mr. Banning very well.

Q. Do you not know Mr. Charles Guthrie?

A. I know Mr. Guthrie very well; yes, sir.

Q. You answered that you thought there was quite a substantial difference between the finishing capacity of the Illinois Steel Company and its raw material supply. Do you know how many hundred thousand heavy T-rails were manufactured by the Illinois Steel Company?

A. I could not remember that. I perhaps knew it at the time. I generally tried to keep posted on production of that kind, but I could not answer that now.

Q. Was it very large?

A. They had a good capacity for rails.

Q. Do you know how it compared with the Carnegie Company's capacity for the production of heavy T-rails?

A. I do not think it was quite as heavy as that of the Carnegie Company. At different times it might have been a little more; and then the Carnegie Company would be more at times.

Q. Do you call wire rods a finished product?

A. No, sir; we call those semi-finished.

Q. As compared with billets, it is more highly finished?

A. Yes; it is a little more highly finished, but we call that a raw material or a semi-finished material.

Q. Do you call tin plate bars and sheet bars semi-finished?

A. Semi-finished; yes, sir.

Q. By buying up the National Steel Company, would the Illinois Steel Company be getting a means of disposing of its raw material supply?

A. It would help the Illinois Steel.

Q. How? What finished products would it help, in the purchase of the National Steel Company? What finished products were manufactured by the National Steel Company that were not manufactured by the Illinois Steel Company?

A. I didn't refer to finished products; I referred to semi-finished products.

Q. What semi-finished products would it help them in?

A. It would help them sell some billets and sheet bars.

Q. Did the National Steel Company need an additional supply of billets and sheet bars?

A. I cannot answer as to whether they had a sufficient tonnage to take care of that business or not. I know that a certain tonnage of those bars came from the Illinois Company, and a certain tonnage from the Carnegie Company, in addition to the National Steel Company.

Q. Do you know what were the principal products of the National Steel Company at that time?

A. Billets and sheet bars.

Q. Do you know what were the principal products of the Carnegie Company at that time?

A. Yes, sir.

Q. Name them.

A. Billets and sheet bars and structural material and plates and merchant bars, armor plates, hoops and bands, rails, tie-plates and splice bars. They had a wire mill, too; I think, at Beaver Falls.

Q. Do you know whether the tonnage in rails of the Carnegie Company was almost equal to the entire tonnage of all its other products?

A. I do not think I could answer that. I do not think it was.

Q. Do you know whether the Carnegie Steel Company was selling about the same number of tin plate bars as the Illinois Steel Company?

A. I could not answer that.

Q. How about sheet bars?

A. We call them the same.

Q. How about plates?

A. They were large manufacturers of plates.

Q. Was the Illinois Steel Company also a large manufacturer of plates?

A. Not so large; no, sir.

Q. Was not a substantial part of their production in plates?

A. They had a fair tonnage.

Q. In proportion to their size?

A. Yes; they had a pretty fair tonnage of plates, if I remember right.

Q. So far as plates are concerned, when they bought out the Carnegie Company, they were buying a company producing the same sort of products, were they not?

A. The same sort of products.

Q. And when they bought out the Carnegie Company, in regard to rails, they were buying a company producing the same sort of products, were they not?

A. Yes, sir.

Q. The same is true of the tin plate bars and sheet bars?

A. Yes.

Q. And, to some extent, in structural material?

A. The Carnegie was very much larger in structural production than the Illinois Steel Company.

Q. How about general supplies for railroads, such as bolts, nuts, splice bars, and those things? Were not both of those companies producing those?

A. I think the Carnegie only made splice bars. The Illinois Company, I think, made spikes, bolts, nuts and splice bars.

Q. Well, then, in that product they had a greater finishing capacity than the Carnegie Company, or at least more products?

A. More diversified, possibly.

Q. Do you know whether the United States Steel Corporation has any advantage over its competitors by virtue of its business connections throughout the United States?

A. That is a pretty hard question to answer.

Q. You have been giving your general understanding here. What is your understanding in regard to it?

A. I imagine in a few things they might have some advantage in that respect.

Q. Some alliances might be helpful with other companies; with railroads?

A. Yes; possibly.

Q. Do you know what proportion of the steel products of various steel companies is sold to railroads?

A. There is quite a difference of opinion on that. Some

people say 35 per cent. I have heard it all the way from 35 to 55 per cent.

Q. Then there might be a great advantage in having alliances with railroads, might there not?

MR. LINDABURY: I object to that as pure speculation.

THE WITNESS: The question of prices on their goods would have more influence than anything else, I should imagine, in the heavy purchases from the railroads. I have never yet found them willing to give more money to one concern than another.

MR. COLTON: That is all.

RE-CROSS EXAMINATION,

By MR. LINDABURY:

Q. As a matter of fact, in so far as you know, has the Steel Corporation ever had favors from any railroad on account of business or other association with its officers or managers?

A. I have never heard of any.

Q. Did you ever hear of the suggestion before?

A. No, sir.

Q. With regard to these finishing mills, plate mills, tin mills, wire mills, steel hoop mills, tube mills, they are very important finishing mills, are they not?

A. Yes, sir.

Q. Did the Federal have any of those before the Steel Corporation was formed?

A. They had a plate mill.

Q. A tin plate mill?

A. Oh, no.

Q. I meant to say a tin plate mill.

A. No; nothing like that. I think they had a mill on which they could roll some hoops and cotton ties.

Q. Where?

A. But they did not manufacture wire or pipe or tin plate.

Q. It was quite a small affair, was it not?

A. Yes; I think so.

Q. And relatively unimportant?

A. Yes, sir.

Q. I will go through this more in detail, because it is important: The tin plate business is an important one in this country, now, is it not?

A. It has grown to be a very large and important business; yes, sir.

Q. What percentage of the raw material of steel is used up in that business now, do you suppose?

A. Sheet and tin plate, or tin plate alone?

Q. Tin plate alone, I will ask about now.

A. I should say this year between 700,000 and 1,000,000 tons.

Q. What proportion is that of the total of semi-finished products? I want to get at the percentage of the semi-finished product that is used up in those mills, or in any other way, to give an idea of their comparative size.

A. I could not answer that, offhand. It ought to be a matter of record, however.

Q. Probably it is.

A. Yes. Those matters are all matters of record.

Q. At any rate, it is a very large and a very important business?

A. Yes; it is a very large and important business, and growing more so every year.

Q. The Federal had no tin plate mill at all, had it?

A. No, sir.

Q. Did the company have a wire mill?

A. No, sir.

Q. How important have wire mills become in the industry?

A. They have become very important.

Q. Is there any finishing production more important now than that of wire?

A. I think it practically exceeds any tonnage now, with the possible exception of rails.

Q. Is there any line of foreign steel business so important as that which concerns wire products? In other words, is not the American foreign trade in wire products greater than in any other steel products?

A. I think it exceeds any other finished line; yes, sir.

Q. And the Federal had no wire mill at all, had it?

A. No, sir; they had rod mills, but no wire mills.

Q. Did they have any steel hoop mills, except this little one to which you have referred?

A. I think they had a little one, to roll cotton ties and hoops and bands.

Q. How much of a mill was that?

A. That was a mill, I suppose, that would roll something less than 100 tons a day.

Q. That is rather insignificant nowadays, is it not?

A. It was a small mill; yes, sir.

Q. And that is an important business, is it not?

A. Yes, sir.

Q. Did it have a sheet steel mill?

A. It seems to me that they had, at one time, under lease, the Hammond Sheet Steel Company. I do not think they owned it, unless they owned it through selling sheet bars to them.

Q. You do not know whether they had or not?

A. I do not think they owned any.

Q. Did they operate any, at the time of the formation of the Steel Corporation?

A. No, sir; not at the time the Steel Corporation was formed.

Q. Is that an important finishing industry?

A. It is very important.

Q. And it is growing more so?

A. It is taking the place of wood; yes, sir.

Q. Has it been growing rapidly since 1901?

A. I think the sheet steel business practically doubles itself every seven years.

Q. Was it important in 1901? Had it already assumed some importance?

A. That was just about the time it started to grow enormously, and it has been growing that way ever since.

Q. The Federal had no tube mill, either, did it?

A. No, sir.

Q. What do tube mills make?

A. Pipe, tubes, tubular goods.

Q. The production of tubular goods is a finishing process, I believe?

A. It is a finished line; yes, sir.

Q. Had it become important in 1901?

A. Yes; that grows very fast.

Q. And it has been growing very rapidly since, has it not?

A. Oh, my, yes.

Q. And it consumes a large part of the semi-finished product of the steel mills, does it not?

A. An enormous amount of it.

Q. And the Federal had nothing of that kind at that time?

A. No, sir.

Q. Did the Carnegie Company have some finishing mills?

A. They had a good many finishing mills.

Q. They had a good many?

A. Yes. Their specialty was more in the heavier line.

Q. You told us, a little while ago, that the Federal Company did not have mills so located as to supply the eastern trade?

A. Yes, sir.

Q. The finishing mills of the Carnegie Company, which were acquired by the Steel Corporation, were so located as to supply the eastern trade?

A. The Carnegie mills, being located in the Pittsburgh district, would be the natural place to supply the eastern and export business; yes, sir.

Q. What would you say as to the location of the mills of the Tin Plate and the Steel & Wire Company in that respect?

A. Both the Steel & Wire and Tin Plate mills are very well located to take care of the entire trade of the country, and the export trade also.

Q. And well located with respect to the export trade, are they not?

A. Yes, sir.

MR. LINDABURY: That is all.

By MR. COLTON:

Q. Mr. Mudge, do you know as to whether, in 1899, the

Illinois Steel Company did not produce one-half of all the cotton ties used in the United States?

A. Well, if they did, it is news to me.

Q. Do you know whether they had a capacity sufficient to supply the entire country's needs at that time in cotton ties?

A. I never knew. I knew they had a mill that would produce cotton ties, but I did not think it was a large mill. I knew they sold some.

Q. How about hoops and bands?

A. I understood they rolled them all in the same mill.

Q. Have you been to that mill?

A. I cannot say that I ever saw that mill; no, sir.

Q. Have you sold hoops and bands in competition with that mill? I mean, prior to the formation of the Steel Corporation?

A. No.

Q. Had you sold cotton ties in competition with that mill?

A. I never handled cotton ties.

Q. Were you familiar with the cotton tie business prior to that time?

A. The same as I would be familiar with practically any line in iron and steel.

Q. Just generally familiar with it?

A. Yes.

Q. You have no familiarity by virtue of actual trade?

A. No, we did no cotton tie business.

Q. As regards the Federal Steel Company acquiring the Carnegie Company in order to be able to supply the eastern trade: Did it change the location of the Carnegie mills any, when they were acquired by the United States Steel Corporation?

A. How do you mean?

Q. The Carnegie Company supplied the eastern trade, I suppose, before it was taken over by the Steel Corporation, did it not?

A. It did not move its mills.

Q. It did not alter its location?

A. No, sir.

Q. What advantage was there?

A. No more advantage now than there was then. The mills are in the same place.

Q. The mills are in just the same place?

A. Yes, sir.

Q. It eliminates the competition between the Carnegie Company and the Illinois Steel Company?

A. I would not imagine that the Illinois Steel Company could possibly compete in the East or for export; but the Carnegie Company of course would compete in the West, at different times.

Q. The Carnegie Company could sell all over the United States, could it not?

A. They always did.

MR. COLTON: That is all.

By MR. LINDABURY:

Q. You say that the Carnegie Company could compete and did compete in the West. Was there ever a time when the Illinois Company could supply the whole western market?

A. No; I do not believe there was a time that Illinois could possibly supply the western market.

MR. LINDABURY: That is all.

THOMAS W. FITCH,

having been heretofore duly sworn, was recalled for further

REDIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Fitch, you were questioned about a contract in regard to the sale of the stock of the Pittsburgh Wire Company to John W. Gates and others, when you were on the stand before.

A. Yes, sir.

Q. And you stated that you did not have the contract. I will ask you whether, since you were on the stand, you have

made any further search, and if so, if you have found the contract, and I will request you to produce it.

A. When the question was asked this morning, of course I did not have it with me; but after the adjournment for luncheon, I telephoned my office in Rankin and asked them to look it up, and they sent it to me.

Q. Will you produce it?

A. Yes. (Producing paper.)

Q. Is this the contract?

A. Yes.

Q. Is that an original or not?

A. It was executed in duplicate.

Q. And is this one of the original duplicates?

A. Yes, sir.

Q. Do you know the signatures to it?

A. Yes, sir.

Q. And you identify them?

A. Yes, sir.

Q. There are some pencil changes in the body of this contract. Will you examine them to see whether they were made before it was signed?

A. They were made before it was signed.

MR. DICKINSON: I offer this in evidence.

(The paper so offered and identified was thereupon marked Government Exhibit (Fitch) No. 141, October 10, 1912, and will be found in the volume of exhibits.)

THE WITNESS: I wish to say that this contract was drawn up by Willis F. McCook, who was the attorney——

MR. DICKINSON: We do not care about that.

THE WITNESS: He can identify these signatures.

MR. LINDABURY: Will you let us put down our objections after we have read the contract?

MR. DICKINSON: Certainly.

MR. LINDABURY: The defendants object on the ground of immateriality and irrelevancy.

B. F. JONES,

a witness produced by and on behalf of the United States,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you reside?

A. City of Pittsburgh.

Q. How long have you lived here?

A. Forty-four years.

Q. How old are you?

A. Forty-four years.

Q. With what company are you associated?

A. I am president of the Jones & Laughlin Steel Company.

Q. How long have you been president of that company?

A. Since 1901.

Q. How long have you been with the company?

A. Since 1891.

Q. In what capacity were you previous to your being president?

A. Treasurer. I was elected in 1899.

Q. State whether or not in the year 1900 you had an acquaintance with the ores in the Mesabi Range and the royalty that was being charged during that period on ores.

A. In 1901?

Q. No, in 1900 and the early part of 1901.

A. I was familiar in a general way in 1900, but more especially familiar with that matter in 1901.

Q. Were you in that region in that period?

A. Yes, sir.

Q. What was the object of your visit there?

A. At first just to look over the ore country in a general way, and to get an idea of what the ore country was, and afterward, to look for property.

Q. Did you look for property?

A. Yes.

Q. And considered the question of operations?

A. Yes.

Q. Did you at about that period, say in 1901, acquire any property for your company?

A. Yes, sir.

Q. Without giving precise dates, what part of the year 1901 did you acquire properties?

A. We were negotiating all through the early part of 1901, and finally closed for quite a large lot of ore in November, 1901.

Q. When did your negotiations begin?

A. They began in the winter of 1900 or the winter of 1901, I cannot recall just exactly which.

Q. So, as an outcome of your visit there for the purpose of looking into the ores and acquainting yourself with the character of the ores and their prices, your company did make negotiations which resulted in the acquirement of ore property?

A. It did.

Q. During the latter part of 1900 and the first part of 1901, state what were the prevailing prices for royalties in that region, on ores.

A. I would say the royalties varied considerably on account of the bonus paid, but I would say they averaged about twenty-five cents a ton.

Q. Did any of them run lower than that?

A. Yes. The grade of the ore had a great deal to do with that.

Q. So it was from twenty-five cents to a lower amount, according to the grade of the ore?

MR. REED: No, he said they averaged twenty-five cents, and so the statement in your question could not be right.

By MR. DICKINSON:

Q. Did your company pay during the latter part of 1900 or the early part of 1901 any greater royalty than twenty-five cents?

A. Yes, sir.

Q. What did you pay?

A. We paid as high as thirty cents.

Q. Did you pay any higher than thirty cents during that period?

A. That is, during the latter part of 1900 and the early part of 1901?

Q. Yes.

A. Not that I can recall.

Q. In addition to that royalty, did you pay any bonus?

A. Yes, sir.

Q. On what property did you pay as high as thirty cents?

A. A property called the Grant Mine, at Buhl, Minnesota.

Q. I believe you have stated that that was the highest you paid up to that time?

A. Yes.

Q. What bonus did you pay on that property?

A. We paid 25 cents, state royalty, and five cents additional for the lease.

Q. Did you pay any bonus in addition to that?

A. Yes.

Q. How much was that?

A. That was an indeterminate amount, because it was figured on three separate and distinct mines bought at the same time. The bonus was paid on the three mines.

Q. What bonus did you pay on the three mines?

A. Thirty, twenty and ten—

Q. That much bonus?

A. Oh, no. We paid \$950,000 as a bonus for the three mines.

Q. What did you mean—

A. (Interposing) I thought you meant what the royalties were.

Q. Then you did pay those royalties?

A. Yes, sir.

Q. What was the aggregate estimated tonnage at that time of those mines, for which you paid that bonus?

A. Approximately 17,500,000 tons.

Q. One was the Grant mine?

A. The Grant, the Lincoln and the Columbia.

Q. What was the estimated tonnage of the Grant?

A. 10,000,000 tons.

Q. And of the Columbia?

A. 5,000,000 tons.

Q. And of the Lincoln?

A. It was 7,500,000. I see that my calculation was wrong there; I should have said 22,500,000 altogether.

Q. When you gave your estimate as to the aggregate were you mistaken?

A. Yes, sir.

Q. What should it be?

A. It should be 22,500,000 tons.

Q. What was the total amount of that premium you paid on all three?

A. \$95,000. That was not pro rated at all.

Q. You took it together?

A. Yes.

Q. What was the character of the ore in the Grant mine?

A. A very good coarse Mesabi non-Bessemer ore.

Q. How was it situated as to the question of taking out economically?

A. It is a stripping proposition.

Q. A shovel proposition?

A. A shovel proposition, yes.

Q. What is the metallic content of that ore, dried?

A. It was about 55.

Q. Now, take the Columbia mine.

A. The Columbia was a poorer grade of ore. The iron was not so bad. It was 53 or 54. It ran very high in aluminum, which is a very detrimental thing in the blast furnace. It was also very wet.

Q. How about the Lincoln mine?

A. The Lincoln mine was a high grade Bessemer ore, running about the same in iron.

Q. How was that located?

A. That is an underground mine.

Q. You take it out with a shaft?

A. Yes, sir; a shaft.

Q. In the early part of 1901 give the range of the royalties that prevailed at that time for ore.

A. I would say the range was around 20 to 25 cents at that time.

Q. Mr. Jones, please state whether or not any mines of Jones & Laughlin are situated on any of the railroads controlled by the United States Steel Corporation.

A. Yes, sir.

Q. Are there any of those mines tributary alone to those roads?

A. Yes, sir. By "tributary" you mean under contract?

Q. No, I do not mean by contract. I mean have you any mines which are located on either of the roads of the Corporation, and not upon any other roads?

A. They can shift a road there to any mine, one road or the other.

Q. Either the Great Northern or any of the other roads?

A. Yes.

Q. So all your mines, then, are located so that either railroad can serve them?

A. Yes, sir.

Q. Have you any traffic agreements as to any of your mines which obligate the shipment of ore over any of the roads controlled by the United States Steel Corporation?

A. We have; yes, sir.

Q. What mine or mines of Jones & Laughlin are tied up with traffic contracts which obligate them to ship the ore over either or both of the roads, as the case may be, of the United States Steel Corporation?

A. The Lincoln Mine and the Meadow and Fowler Mines.

Q. How long do those contracts run?

A. The term of the lease.

Q. How long is that?

A. The leases of the Meadow and the Fowler and the Lincoln are fifty years. I suppose they would probably have thirty years to go.

Q. I intended to ask you the length of the lease on the Grant Mine.

A. Fifty years.

Q. And what is the length of the lease on the Columbia Mine?

A. Fifty years.

Q. Running from what time?

A. From about 1900 or 1901 or 1902; around there.

Q. What percentage of the ore that has been taken by your company out of the Mesabi Range from 1901 to 1910 inclusive, have you under these contracts obligating you, as you have stated, to ship ore over one or the other of the Corporation's roads?

A. We have shipped about 46 per cent of our ore over the Corporation roads so far.

Q. During the ten years?

A. Yes, sir.

Q. Out of your entire holdings there, if all should be shipped, what percentage would you be obligated to ship over the Corporation's road?

A. Approximately sixteen per cent.

Q. So up to this time you have shipped a larger amount than it would be if the whole were taken into consideration?

A. Yes; we have been shipping very heavily from the Lincoln mine, which is on a Corporation road.

Q. Because you wanted to use that ore?

A. Yes—Bessemer ore.

Q. So that has resulted in a larger amount during that period than if it was distributed over the whole holdings?

A. Yes, sir.

CROSS EXAMINATION,

By MR. REED:

Q. The Mesabi Range in the spring of 1901 was only seven or eight years old, was it not?

A. Well, the Mesabi Range started, really, about 1890 or 1891, or around there.

Q. The first shipment—

A. (Interrupting) About 40,000 tons in 1902, I think was the first.

Q. In 1892, you mean?

A. Yes, 1892.

Q. When the Mesabi Range was first developed, it was found, was it not, that the furnace men had great difficulty in using the ore because of the difference in its structure from that of the old range?

A. Very great difficulty. They all thought they could use a very small percentage only.

Q. And for that reason Mesabi ore was not generally considered very desirable?

A. That is correct.

Q. And the first leases and sales of Mesabi ore that were made in those early years, say the first five years of that decade, up to 1895, were made at extremely low rates, were they not?

A. Yes, sir; I so understand.

Q. Many sales were made of the fee for less than one cent per ton, were they not?

A. I could not answer that intelligently.

Q. Of course your acquaintance with the range does not go back as far as that, I presume?

A. No, not except general hearsay.

Q. You did not have—

A. (Interrupting) Any practical knowledge, no.

Q. You never were there as early as that?

A. No, sir.

Q. In the last five years of that decade, from 1895 to 1900, there was a gradual rise in the price of Mesabi ore, was there not?

MR. DICKINSON He just said he did not know.

MR. REED: I am asking him about the later period now.

THE WITNESS: That was 1895 to 1900.

MR. REED: Yes.

THE WITNESS: As I say, I was not familiar with the practical end of the ore prices then. Of course it did advance gradually as a matter of fact, as we were able to use it, yes.

MR. DICKINSON: We except to that as incompetent. He says it is hearsay.

By MR. REED:

Q. Let us take the period beginning with April, 1901, and fix that time in your mind. I might say that that is the time that the Steel Corporation was organized. Was there also a gradual rise in the price or in the prevailing rates of royalty for Mesabi ore after April, 1901; in other words, did this enhancement in price or royalty continue?

A. No, I would not say that it did to any great extent immediately. There was a great deal of undeveloped ore which was being bought on the market at that time, and people did not realize that the ore was not inexhaustible.

Q. Then the formation of the Steel Corporation did not result in any sudden rise in the royalties for Mesabi ore?

A. I could not say that it did.

Q. Can you not tell that it did not; do you not know that it did not?

A. It did not immediately.

Q. Since 1901, or, rather, since your acquaintance with the range began, in 1900, is it not true that all of the large steel companies, without exception, all of the companies which have furnaces in the district north of the Ohio River, have been steadily picking up Mesabi ore whenever they could?

A. Yes, sir.

Q. You are doing it yourself, are you not, up to the present time?

A. Yes; up to the present time.

Q. Mr. Jones, I think I heard you aright when you said that about 16 per cent of the ore reserves of your company are tied up for contract for shipment over one or the other of the two Steel Corporation roads. Is that correct?

A. That is approximately correct.

Q. And is the remaining 84 per cent of your Mesabi ore tied up under similar contracts with the Hill Road?

A. The remaining ore that we have under a traffic contract—we have two mines that are not under contract with any railroad, but of the mines that are under contract, 16

per cent are with the Corporation roads and 84 per cent with the Great Northern.

Q. Can you give us any statement or estimate of that proportion of all your ore on the Mesabi Range which is under contract for transportation over the Corporation roads?

A. I do not exactly understand that question.

Q. You have given us that percentage of the ore which was tied up to one road or the other. Now can you tell us what percentage of all your ore on the Mesabi Range that 16 per cent of the contracted ore constitutes?

A. I could not. Those two mines are reserve mines. It would be impossible to tell what arrangement we may make for the transportation of that ore later.

Q. They have not been completely drilled, I suppose?

A. They have been fairly well drilled, but not opened up.

Q. In your opinion what percentage of all your ore on the range will those two mines constitute?

A. I should say not ten per cent.

Q. Though, if you produced from all your Mesabi mines uniformly each year, only 16 per cent of your production, outside these two mines that are free, would travel over the Corporation Roads, as a matter of fact you have been during recent years shipping almost one-half of your ore from those mines which were tied up to the Corporation roads?

A. Yes, sir.

Q. Referring to these contracts, it is true, is it not, that they oblige you to ship over the Steel Corporation's road only so long as that road continues to offer as good service and as favorable rates as any competitor?

A. Yes, sir.

Q. You are not obliged to ship over the Steel Corporation road unless it meets the lowest rates of its competitors?

A. No, sir.

WILLIS L. KING,

having been heretofore duly sworn, was recalled for further

DIRECT EXAMINATION,

By MR. DICKINSON :

Q. I understand through Mr. Colton that you desire to make a correction in your testimony that you gave the other day. Is that a fact?

A. Yes. I asked permission to come and state that I perhaps made a mistake in the exact date as to the time when all agreements among the plate and structural manufacturers ceased. I fixed that date in my testimony the other day at the end of the formal pools, that had a percentage and penalty, which were disbanded in 1904. On thinking over the matter further I thought it might be possible, inasmuch as the commissioner, I find, was continued until September, 1906, and then dismissed finally, I thought perhaps it might be possible that that date should be in the summer of 1906 rather than at the beginning of 1905.

Q. What correction do you want to make, if any?

A. I want to correct the possibility of a mistake which I may have made in saying that after 1904 there were no agreements of any kind among the manufacturers of plate and structural material.

Q. Just state, then, what your best recollection is on that subject.

A. I am anxious to do that, Judge, and as a matter of fact, it is only a recollection; but I had occasion to notice, since my testimony here, that the Commissioner, Mr. Temple, was continued until August, 1906, and it is my impression that perhaps we did not do things in that interim from 1904 to that date on the plans laid down strictly by our attorneys, in that we could not agree to anything but merely state our opinion when meeting together, our business, condition of business and what we were charging for our material, which we did afterwards.

Q. Now, as I understand you, it appears, although I have not read your testimony, that you have stated that they did not continue after 1904.

A. In the shape of pools, yes sir.

Q. And you do not want to stand by that positive statement, and it may be that they continued longer?

A. Not in the shape of a pool at all; it would not be any more—well, the usual term for those things, it might be called, a gentlemen's agreement. There was no percentage, absolutely all that stopped in 1904.

Q. How long did what you call a gentlemen's agreement continue——

MR. SEVERANCE: He does not say that there was one. He says it might be, possibly, that there might have been something of the kind.

MR. DICKINSON: Well, what do you say about it, Mr. King, as to the fact, so far as you know?

THE WITNESS: I only desire to say that I might be mistaken as to those two dates. I might be. It is only a matter of recollection at best.

By MR. DICKINSON:

Q. Were there any things such as you have described as gentlemen's agreements, and if so, how long, according to your recollection, did they continue?

A. Well, after the dissolution of the formal pools, as I have testified, we continued meetings, and perfectly properly, and we had a commissioner for statistical purposes, and I say that it is probable that in that interim from 1904 until, say, the summer of 1906, we did not carry on those things in the strictly legal sense that we did later, after that date.

Q. Is that all that you mean to testify as to what was possible, and have you no positive recollection as to whether you did or did not?

A. No, I have not.

Q. And you simply do not want to be committed to saying, as you said before, that they ceased at a certain time, and you leave it open; you may have been mistaken?

A. That is right.

Q. You used the expression "gentlemen's agreement".

A. Yes, sir.

Q. What did you mean by that?

A. In the ordinary acceptance of that term it means a lot of gentlemen, presumably gentlemen, get together and talk about their business, and after discussing conditions agree among themselves, without any penalty or anything else but a moral obligation, that they will charge so much for their product.

Q. Did you have such agreements as that?

A. I am not quite sure about that. That is after 1904. I say that there is a possibility that I am wrong in my dates as to the exact time of the stopping of those things.

Q. And if you had them after that you say you are not sure?

A. Certainly, after the summer of 1906, I am absolutely sure.

MR. SEVERANCE: That you did not?

THE WITNESS: That we did not.

By MR. DICKINSON:

Q. Have you any recollection as to how long those gentlemen's agreements continued?

MR. SEVERANCE: He says he does not know that there were any. I object to the form of that question, because by the question it is assumed that he has stated that there were such gentlemen's agreements.

By MR. DICKINSON:

Q. Well, I will ask this question. Did you or not say that there were such gentlemen's agreements after any period?

A. Oh, there have been from time immemorial. That was the usual form.

Q. Did you have any after 1904?

A. No sir. Well, not in the form of formal and exact agreements. Judge, I am trying to tell you, I think very awkwardly, but I will really ask permission to say that I was not entirely sure as to the date when those actual agreements stopped, whether it was in 1904, when the formal pools ceased

operation, or whether it was a little later, say in 1906.

Q. And so far as your testimony goes, you say they may have continued later?

A. They may have.

MR. SEVERANCE: But not later than 1906.

By MR. DICKINSON:

Q. Are you speaking of those that you participated in?

A. Oh, entirely.

Q. You are not speaking of anything else that may have happened when you were not present?

A. No. I am talking of the arrangements that I happened to be connected with.

Q. Mr. Colton wants me to ask another question. To the best of your recollection, when did the gentlemen's agreement that you participated in, if you did participate in any, that you have described, cease?

A. The formal——

Q. I am not talking about the formal ones now.

A. What I would like to testify to is that in thinking this matter over I am not entirely certain as to whether the form of a meeting prescribed by our lawyers as proper and legal, and which I described the other day—I think you both know what I mean—I am not entirely certain whether they started immediately in 1904, or a little later.

Q. Suppose the stenographer reads the question.

(The pending question was repeated by the stenographer.)

A. Well, they either ceased in the latter part of 1904, or else in the summer of 1906.

Q. And that is all you recollect about it?

A. Yes. I do not want to put myself in the position of fixing a date that may be wrong. I want to say that I have some doubt about it.

Q. Can you give no more approximate date than that?

A. It is either one or the other of those two dates.

Q. Which would you say it was, if you know?

A. I do not know, Judge.

Q. You do not know?

A. No, I do not. I do not want to say the date positively that I have some doubt about, some possible doubt about. That is all.

MR. SEVERANCE: No questions.

(Witness excused.)

MR. DICKINSON: Petitioner offers in evidence copy of a letter of February 17th, 1898, written by Julian Kennedy and Robert Forsyth to Mr. C. H. Coster, J. P. Morgan & Company, New York, and with it copies of the unsigned report on the values of the wire properties, the list of the individual valuations, and the note in regard to depreciation referred to in said letter.

It is agreed by the defendants represented by Messrs. Lindabury, Depue & Faulks that said documents may be received as if they were the originals, that said Robert Forsyth is an engineer residing in the city of Chicago, that he and Julian Kennedy if called would testify that they made the valuations as set out in said papers at the instance of J. P. Morgan & Company and in the manner set out in said papers; that in their opinion they were correct, and that they transmitted said letter and the other papers named to J. P. Morgan & Company on February 17, 1898, and this statement may be used to the same effect as if they had so testified and shall be subject to contradiction in the same way.

(The papers so offered and identified were thereupon marked Government Exhibit No. 142, October 10, 1912, and will be found in the volume of exhibits.)

MR. DICKINSON: Petitioner offers in evidence statements furnished by the United States Steel Corporation in response to subpoenas, as follows:

First, paper entitled "Illinois Steel Company, production, calendar year 1900", marked Exhibit No. 143.

Second, statement entitled "Illinois Steel Company, gross sales for the calendar year 1900," marked Exhibit No. 144.

Third, statement entitled "Carnegie Steel Company, Statement of sales for the year 1900," marked Exhibit No. 145.

Fourth, statement entitled "American Steel Hoop Company, statement of sales for the year 1900", marked Exhibit No. 146.

Petitioner also offers in evidence memorandum of agreement made April 6, 1901, between C. S. Trench, and Richard Lewis, of one part, and the American Tin Plate Company of the other part, and it is agreed in behalf of the defendants represented by Messrs. Lindabury, Depue & Faulks that said document was executed by said parties and shall be received as if it were the original executed contract, and the schedule therein referred to may be omitted, but that the exhibit shall be subject to objection on account of irrelevancy or immateriality, the same being marked Exhibit No. 147.

Petitioner also offers in evidence an agreement made April 30, 1900, between James P. Kennedy of the first part and the American Bridge Company of the second part, and it is agreed on behalf of the defendants represented by Messrs. Lindabury, Depue and Faulks, that the said document was executed and shall be received as if it were the original executed contract, subject to objection for immateriality or irrelevancy, the same being marked Exhibit No. 148.

STIPULATION.

It is stipulated for petitioner and for those defendants represented by Messrs. Lindabury, Depue and Faulks, that at or about the same time that the American Bridge Company entered into the foregoing contract with James P. Kennedy, a stockholder of the Youngstown Bridge Company, it entered into contracts identical in all substantial provisions with the following parties:

Frederick H. Schmidt, a stockholder of the Youngstown Bridge Company.

Frank M. Wyant, a stockholder of the Wrought Iron Bridge Company.

J. G. Wagner, a stockholder of the J. G. Wagner Company.
 Andrew Onderdonk and Charles Macdonald, partners in the Union Bridge Company.

Jesse W. Walker, a stockholder of the Shiffler Bridge Company.

William H. McCord and Estate of Andrew J. Post, partners in Post and McCord.

Ed. A. Merydith, T. M. Nelson and A. Buchanan, stockholders in the Pittsburgh Bridge Company.

H. P. Hepburn, a stockholder in the New Columbus Bridge Company.

Moritz Lassig, a stockholder in the Lassig Bridge & Iron Company Works.

Frank S. Moore, Everett B. Vawter, and Wallace Marshall, stockholders in the LaFayette Bridge Company.

William T. Koken and H. Stoffregen, stockholders in the Koken Iron Works.

E. A. Perkins and J. S. Perkins, partners in the Horseheads Bridge Company.

Elnathan Sweet, George P. Hilton, Elnathan Sweet, Jr., stockholders in the Hilton Bridge Company.

Frank Conger, a stockholder in the Groton Bridge and Manufacturing Company.

Geo. M. Gillette, L. S. Gillette and Frank Llewellyn, stockholders in the Gillette Herzog Manufacturing Company.

Robert Grimes, Walter Hawhurst, Everett E. Buchanan and William S. McCord, stockholders in the Elmira Bridge Company, Limited.

Carl Meyer and Robert D. Wilson, partners in the Buffalo Bridge and Iron Works.

Charles N. Jarvis and Frank L. Wilcox, stockholders in the Berlin Iron Bridge Company.

Paul K. Richter, a stockholder in the American Bridge Works.

STIPULATION.

It is further stipulated between counsel for the petitioner and the defendants represented by Messrs. Lindabury, De-

pue and Faulks, that at or about the same time, when the American Bridge Company entered into the foregoing contracts, it also entered into contracts with William Sellers and John Sellers, Jr., stockholders in the Edge Moore Bridge Works, with John F. Alden, partner in the Rochester Bridge & Iron Works, and with the Lassig Bridge & Iron Works, a corporation, and it is agreed that the contracts, copies of which are marked exhibits Nos. 149, 150 and 151, and herewith offered in evidence by the petitioner were executed by the said parties, and that the said copies shall be received as if they were the original executed contracts, subject to objection for irrelevancy and immateriality.

Petitioner also offers in evidence an agreement dated June 28, 1905, between Carnegie Steel Company and Pittsburgh Steel Company, with supplemental agreement contained in a letter of even date; and it is agreed between the petitioner and the defendants represented by Messrs. Lindabury, Depue and Faulks that the said agreements were executed, and that copies of the same marked respectively Exhibits Nos. 152 and 153, shall be received as if they were the original executed agreements, but shall be subject to objection on the ground of immateriality or irrelevancy.

MR. LINDABURY: Defendants' counsel object to the said several exhibits, marked Government Exhibit No. 142 to Government Exhibit No. 153, both inclusive, on the ground of immateriality and irrelevancy, and they make the said objection on behalf of each of the defendants they represent severally.

(The papers so offered in evidence and identified were thereupon marked "Government Exhibit No. 143" to "Government Exhibit No. 153", both inclusive, October 10, 1912, and will be found in the volume of exhibits.)

MR. DICKINSON: Petitioner offers in evidence publication entitled "Directory of the Iron & Steel Works of the United States, 14th Edition, corrected to April 1, 1898, published by the American Iron & Steel Association, Philadelphia, No. 261 South Fourth Street, 1898"; and also the publication entitled

“Supplement to the Directory of the Iron and Steel Works of the United States”, compiled by the American Iron & Steel Association, Second Edition, corrected to August 15, 1900, published by the American Iron & Steel Association, No. 261 South Fourth Street, Philadelphia, 1900.

(The publications so offered in evidence were thereupon marked “Government Exhibit No. 154” and “Government Exhibit No. 155.”)

MR. LINDABURY: We object to the reception in evidence of said publications as irrelevant, immaterial and not legal or competent evidence of any matter that may be contained therein.

STIPULATION.

MR. DICKINSON: It is stipulated by counsel for the petitioner and counsel for those defendants represented by Messrs. Lindabury, Depue and Faulks, that neither of said publications need be printed unless required by the rules or direction of the Court; and that the originals may be sent up and that said publications and duplicates thereof may be used, with permission of the court, in lieu of copies of the same printed in the record.

(Thereupon, at 5:30 o'clock p. m., the further hearing of this case was adjourned to a date and place to be subsequently agreed upon.)

THIRTIETH DAY.

Room 309, Federal Building,
Pittsburgh, Pennsylvania,

October 29, 1912.

The hearing was resumed at 10:30 o'clock a. m., before Special Examiner Henry P. Brown.

Present on behalf of the United States, Mr. Dickinson, Mr. Colton and Mr. Corneau.

Present on behalf of the defendants, Mr. Lindabury, Mr. Severance, Mr. Bolling and Mr. Reed.

HENRY WICK,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Wick, where do you live?

A. Youngstown, Ohio.

Q. What is your age?

A. 66.

Q. Are you at present engaged actively in any business?

A. No, sir; I am not.

Q. Were you, at any time, associated with the Ohio Steel Company?

A. Yes, sir.

Q. In what capacity?

A. As president.

Q. For how long a period?

A. From May, 1892, until 1899.

Q. That was the time it was taken over by the National Steel Company?

A. Yes, sir.

Q. Did you hold any office with the National Steel Company, and if so, during what period?

A. I was chairman of the executive committee of the National Steel Company, and vice-president of the National Steel Company.

Q. For how long?

A. From the early spring of 1899 until the early spring of 1901, about the time it went over into the Corporation.

Q. That is to say, the time it was taken over by the United States Steel Corporation?

A. Yes, sir.

Q. Did you hold any position after that with the United States Steel Corporation?

A. No, sir.

Q. Prior to the organization of the National Steel Company, namely, February 4, 1899, what was the ingot capacity of the Ohio Steel Company, about?

A. Around 2,000 tons, somewhere from 1,600 to 2,000 tons a day.

Q. What would that make annually?

A. About 300 times that.

Q. Approximately 600,000 tons a year?

A. I would think so. Something like that. I might explain, Judge, that of course that would not be the average over the period that we were in operation, because the first month we ran, we made 2,000 tons of steel.

Q. That was the first month you ran?

A. Yes, sir.

Q. After you had gotten in running order, however, your annual capacity was approximately what?

A. It would be probably 250 times 1,600 to 2,000 tons, whatever that is. I do not think, over the period we ran the Ohio Steel Company, we would average more than 250 working days in the year, perhaps.

Q. Please state, generally, what steel works the Ohio Steel Company had at the time of the organization of the National Steel Company; what character of works they had, at the

time the Ohio Steel Company was taken over by the National Steel Company.

A. They had two converters and a blooming mill, and a billet mill, and a mill for making sheet and tin plate bars, which was a part of the billet mill.

Q. Was the construction there of such a character or not that a rail department could be introduced?

A. Yes, sir; it was.

Q. As a matter of fact, state whether or not a rail department was added.

A. It can hardly be said that it was added. The mill was originally constructed with a view of some time making rails, if it was thought advisable; but, of course, a considerable part of the plant necessary to make rails was not a part of the mill at that time.

Q. Then please state whether the original plan, so far as it contemplated the making of rails, was carried out at a later period.

A. I think it was; yes, sir. Not while the Ohio Steel Company——

Q. I understand.

A. (Continuing) But after the National Steel Company acquired it, it was completed, and rails were made.

Q. And rails were made?

A. Yes, sir.

Q. To what extent could the National Steel Company have utilized its ingot capacity in making rails, if it had desired to put its entire product into rails?

A. I should say three-quarters, or something like that.

Q. A certain portion of the ingot is lost, is it, in manufacturing, that is not adapted for use in rails?

A. It is not lost, but in those days it was not considered so well calculated to make rails, or not as good rails as the remainder of the ingot.

Q. It was cut off, was it, in that process?

A. It was sheared.

Q. Except what was sheared, state whether your entire ingot capacity could have been converted into rails.

A. This was a part of the ingot capacity that was sheared

off and run into a product that could be utilized, notwithstanding it was not suitable for making rails.

Q. But the balance, under the character of your plant, could be used for rails?

A. Yes, sir; practically it could.

Q. Can you state about when your plant was adapted for making rails?

A. After the National Steel Company acquired it?

Q. Yes.

A. It must have been a very short time before the property went over into the corporation.

Q. Into the United States Steel Corporation?

A. Yes. I can not remember the exact date.

Q. You cannot give the exact date?

A. No, sir; I can not.

Q. Had or had not the Ohio Company begun the erection of two blast furnaces before it was taken over by the National Company?

A. We had, as I remember, one blast furnace under construction, and another contemplated; but I do not think there had been any work done on it.

Q. Were or were not they completed by the National Steel Company?

A. I do not believe that they, either of them, were in blast when we went over.

Q. When you went over how?

A. I may be mistaken about that. When we sold to the National Steel Company, I mean.

Q. But, after you sold to the National Steel Company?

A. Oh, yes.

Q. Both of these were completed and put into operation by the National Steel Company?

A. Yes, sir.

Q. How many blast furnaces did the National Steel Company have there at the Ohio Steel Company's plant when it was taken over by the United States Steel Corporation?

A. I think four were completed.

Q. What was their capacity ?

A. I should say an average of between four hundred and five hundred tons, each furnace.

Q. Between four hundred and five hundred tons a day?

A. Yes, sir.

Q. State whether or not the National Steel Company, before it was taken over by the United States Steel Corporation, had made and sold rails in interstate commerce.

A. I think they did, sir.

Q. That is your recollection?

A. Yes, sir.

Q. Do you recall now where those rails were sold?

A. No, sir.

MR. LINDABURY: I did not understand the witness to say that he recollected what you assume in your question he said. I think he said that he did not recollect.

MR. DICKINSON: I asked him according to the best of his recollection.

MR. LINDABURY: If he means to say that he recollects they did, all right.

(The last few questions and answers were repeated by the stenographer.)

THE WITNESS: That is my recollection, that they made some rails.

By MR. DICKINSON:

Q. Please state whether or not the National Steel Company, at its Youngstown plant, and prior to the taking over of the National Steel Company by the United States Steel Corporation, was preparing for the development of an open-hearth plant at Youngstown; and, if so, what was the capacity?

A. If there was any sort of a plan, it was not matured, at all, as I remember, at that time.

Q. What do you mean by saying that it was not matured—that you were not actually carrying it out?

A. I do not think that they had undertaken to build any plant at that time.

Q. State whether or not you had employed engineers or an engineer for the purpose of preparing plans.

A. We had engineers all the time employed, and it is quite likely that plans were being developed; but I am not certain about that. There was not very much done, I think.

Q. I will ask you whether or not your company, in the early part of 1901, and before it was taken over by the United States Steel Corporation, employed Mr. Julian Kennedy as consulting engineer for the purpose of the development of an open-hearth plant at Youngstown.

MR. LINDABURY: Objected to as leading.

A. I must say that I cannot recall that. I ought to explain, perhaps, that that particular part of the business of the National Steel Company was not up to me. I did not have it in charge so much as some other parts of the business. I can say, however, that Julian Kennedy was employed by the Ohio Steel Company to build their works, and he might have followed on into the other company; but, as a rule—

By MR. DICKINSON:

Q. (Interposing) Have you any recollection at all as to any plans in regard to establishing an open-hearth plant at Youngstown by the National Steel Company, before it was taken over?

A. I have no recollection of plans, but I know it was my thought, and I think it was the thought of the National Steel Company, to erect an open-hearth plant at the Ohio Works; but I do not recall just how far it proceeded up to the time we went over into the United States Steel Corporation.

Q. State whether or not that matter had been taken up officially by the officers and directors.

A. I cannot state, I cannot recall.

Q. I call your attention to the minutes of the National Steel Company, which have been offered in evidence, and particularly to the date of February 14, 1901, at page 811 of the transcript of the record, Government Exhibits, Volume No. 2, and I ask you to read there.

MR. LINDABURY: I object to the minutes being shown the witness, the same being a paper not made by the witness. So far as it appears, he has never seen it before, and I object

to its being shown to him for the purpose of refreshing his recollection.

By MR. DICKINSON:

Q. You were a member of the board, were you not?

A. Yes sir.

Q. And a member of the executive committee?

A. Yes sir.

Q. Now I will ask you to read that extract right there, dated February 14th.

MR. DICKINSON: (Addressing Mr. Lindabury): The minutes show that he was present.

THE WITNESS: Do you want me to read this aloud?

By MR. DICKINSON:

Q. Yes; just read it aloud.

A. (Reading): "February 14, 1901.

"Mr. Leeds moved that Mr. Julian Kennedy, as consulting engineer be instructed to start through our engineer corps the development of an open-hearth plant at Youngstown, capable of making 3,000 tons per day, so laid out that 1,000 tons capacity per day can be built at once, and the remainder added.

"This was seconded by Mr. Reid, and carried, all voting aye except Mr. Gilbert."

I do not remember anything about it.

Q. You do not recall that?

A. It was, in any event, just before the corporation took the property over, February 14th—

Q. The corporation was formed in April; that was February 14th?

A. Yes. Well, now, I have a general recollection that an open-hearth plant was under contemplation, and I think some time before this, by the Ohio Steel Company. We always had it in view—that some time we would have to have or should have an open-hearth plant there.

Q. When you say "Under contemplation" you mean under contemplation by whom?

A. Perhaps more particularly myself, and our superintendents, than any one else.

Q. Well, you were a member of the executive committee?

A. Yes.

Q. And also president of the company?

A. I am talking about—

Q. (Interposing) The Ohio Company, I understand.

A. More particularly about the Ohio Company.

Q. Yes, the Ohio Company. As far back as that time, then, you say you had in contemplation the construction of an open-hearth plant? .

MR. LINDABURY: I object. He did not say the company had—

MR. DICKINSON: I did not say that the company had, either.

MR. LINDABURY: And he had no power to do it alone.

MR. DICKINSON: I said, "You had under contemplation."

MR. LINDABURY: Contemplation is not the proper word.

MR. DICKINSON: Please read the question.

(The stenographer repeated the question as follows):

"Q. As far back as that time, then, you say you had in contemplation the construction of an open-hearth plant?"

THE WITNESS: I can say that I thought an open-hearth plant was necessary, probably a long time before it was brought before the Board; the superintendent and I probably thought so, and I think we did talk of those things ahead.

By MR. DICKINSON:

Q. Well, was it brought before the Board?

A. To illustrate that, I remember, if I may be allowed—

Q. I would like you to answer the questions. Of course if you want to state any facts in connection with it, that would be proper, but a mere illustration would hardly be responsive to my question. If you have not answered the question in the way you desire to, of course I am willing for you to do so.

A. I do not think that the matter of building an open-hearth plant had been considered seriously by the Board very

long before we went over into the United States Steel Corporation.

Q. Have you any recollection contrary to what is recited in that minute?

A. I do not recall that the matter of an open-hearth plant was seriously considered before we went over into the Corporation; that is, not seriously considered by the body, by the Board.

Q. That does not answer the question. The question is, have you any recollection contrary to the facts recited to which I have called your attention?

A. I have not any recollection about it, Judge.

Q. Very well; that is what I want to know. Mr. Wick, from the time the Ohio Company was acquired by the National Steel Company, and up to the time that the National Steel Company was taken over by the United States Steel Corporation, what products were made at that plant?

A. At the Ohio plant?

Q. No; I will say by the National Steel Company. What products were made by the National Steel Company and sold by it in interstate commerce?

A. You do not mean at the Ohio plant?

Q. Everywhere. You were an officer of the National Steel Company?

A. Yes, sir.

Q. That is broad enough, then, to cover it all.

A. Well, as I remember, the National Steel Company manufactured slabs, blooms, billets, sheet and tin plate bars, and I think the Mingo Junction plant of the National Steel Company manufactured some, what we call rods and bars.

Q. State whether or not it sold those manufactured articles in interstate commerce.

A. I think it did, sir.

Q. What companies, during that period, were the principal competitors in interstate commerce of the National Steel Company?

A. Jones & Laughlin; the Federal Steel Company, to some extent; the Pennsylvania Steel Company, perhaps; the

Bethlehem; the Cambria. I do not at the moment recall any more.

Q. I will ask you how about the Carnegie Company?

A. Yes, the Carnegie. They, of course, were the greatest, they were the largest manufacturers.

Q. How about the Illinois, before it was taken over by the Federal?

A. I think I mentioned the Illinois, that it probably was somewhat of a competitor; but it was a little out of range for our products.

MR. LINDABURY: You mentioned the Federal. I suppose you meant the Illinois?

THE WITNESS: Yes, sir:

By MR. DICKINSON:

Q. Did you have any control of the matter of sales?

A. I looked after the sales perhaps more than any other part of the business.

Q. In what territory, during that period, did the National Steel Company sell billets?

A. You mean sell its entire product?

Q. No; not its entire product; in what territory did it sell billets—any billets.

A. It sold billets through the State of Ohio and western Pennsylvania, and, I think, into West Virginia somewhat.

Q. How about Indiana?

A. I do not recall any place in Indiana. It may have sold steel in Indiana.

Q. Was there any reason, that you know of, why you did not sell in Indiana?

A. No, sir.

Q. You do not recall that you did not sell? Do you or do you not?

A. I do not recall any place where we did sell, at this moment; that is, billets you are talking about now?

Q. What do you mean by not recalling any place? You mean the particular place?

A. Yes; I say I do not recall any particular place where steel was sold in Indiana.

Q. In Indiana?

A. Yes.

Q. But if you had sold in Indiana, who would have been your chief competitor?

MR. BOLLING: That is objected to. It is not proven that he has sold in Indiana. It is purely speculative. He has said that he does not recollect ever having sold there at all.

MR. DICKINSON: My question is, who would have been his chief competitor if he had sold there.

MR. BOLLING: That is purely a hypothetical question. There is no basis for a hypothetical question here, Judge.

MR. COLTON: They might have kept him out.

MR. BOLLING: He has not shown that they did keep him out, or that they ever attempted to do so.

MR. DICKINSON: If he had sold in Indiana, I want to know who his chief competitor would have been.

MR. LINDABURY: The question could be covered by asking who sold principally in Indiana.

MR. BOLLING: The question might as well be asked about New Mexico or California.

We object to the question as incompetent.

(By request the stenographer repeated the question under discussion as follows:)

“Q. But if you had sold in Indiana, who would have been your chief competitor?”

THE WITNESS: I would say this, that it would be pretty difficult to say who our chief competitor would have been, when I have not any definite place where the sales were made in Indiana. I do not recall any place.

By MR. DICKINSON:

Q. State whether or not there was any manufacturer of billets situated more favorably on account of rates to supply the Indiana territory than your company was, and if so, what.

A. It would depend on what part of Indiana you are speaking of. If it were in the eastern part of Indiana, I do not think there would be. If it were in the western part of In-

diana, I think the Illinois Steel Company would be more favorably situated.

Q. What was the state of the steel market as to prices during the latter part of 1900?

A. There was quite a depression during, I think it was, the latter part of 1900, a shortage of demand.

Q. What was the character of the competition at that time?

A. It was as competition always was, to my recollection.

Q. How is that?

A. It was just as competition had always been, in my entire career as a manufacturer; a natural competition.

Q. I will ask whether or not there was any price cutting in the latter part of 1900.

A. Well, I do not know as I quite understand what you mean by "price cutting." There was a decline, and I suppose that the competition that prevailed was accountable for the decline, partly, and lack of demand.

Q. A decline in what?

A. A decline in the prices of steel.

Q. A decline in prices?

A. Yes, sir.

Q. State whether or not the prices that prevailed in the latter part of 1900 were variable as between various companies, or uniform.

A. I think they were uniform. I think it is a natural result of a general advance and better demand that trade goes along together; and, as it declines, it must follow together.

Q. You say there was a falling off in prices during that period?

A. A falling off in demand, likewise.

Q. And a falling off in demand, likewise?

A. Yes, sir.

Q. You say that there was also, so far as you know, a uniformity of prices among competitors?

A. No more uniformity than there is in the natural law of supply and demand.

Q. What is the natural law of supply and demand, as you use that expression?

A. If the demand is as great, or greater than, the supply, prices usually prevail high. If the reverse, they prevail lower.

Q. Is there any natural law that makes the prices of competitors uniform?

A. Yes, sir; practically so. If one finds that he does not get the business at the price that he would like to get it for, he is compelled, by the law of supply and demand, to get a less price, if he wishes to secure the business.

Q. A less price than what?

A. Less than the price that has prevailed previously.

Q. A less price than that at which others are selling at that time?

A. No, sir, the same price. It resolves itself into that through competition.

Q. Through competition?

A. Yes, sir.

Q. Do you mean to say that, through competition, there is a natural law that brings a uniformity of price?

A. Yes, sir; I do.

Q. How do you explain that? I would like to have you explain that.

A. Well, sir, at the time we started the Ohio works, for instance, there was a very slack demand for steel billets and the product that we made. We sold that product as low as thirteen or thirteen and a half a ton, and it was because there was a lack of demand, and therefore the prevailing price was put at what we could get for it. That is what I mean.

Q. Did you sell following a prevailing price, or did the prevailing price follow your sales?

A. I think we followed the prevailing prices, or attempted to.

Q. You followed the prevailing price?

A. Yes; and got as near to the prevailing price as we could, or more than the current price, and if——

Q. Now I want to ask you——

MR. LINDABURY: One moment, Judge. You interrupted the witness. He is giving some valuable philosophical information, and I do not think he was quite through.

THE WITNESS: I think I had finished.

MR. LINDABURY: I will ask the stenographer to read the answer.

(The stenographer repeated the last answer of the witness.)

THE WITNESS: If possible, we would get more than the current price; but we did not do it very much.

MR. LINDABURY: Because you could not?

THE WITNESS: Because we could not.

BY MR. DICKINSON:

Q. Do you mean to say that, when there was a falling off in prices, they fell off as to all competitors at the same time? Is that what you mean to say, or not?

A. Yes, sir. I think that the conditions were the same, then, as they usually are, that when there is a slack in demand, the prices usually decline; and when there is an active demand, the prices naturally advance.

Q. Do they decline at the same time and all at once for all competitors for the same business?

A. Just as soon as they get out and get after business and find that it is offered at a less price than they have been getting, it declines.

Q. You mean it declines all at once as to all of them?

A. I do not know that it does to the minute, or anything like that, Judge; but it gradually seeks its level all the time, either high or low.

Q. You mean, then, that the level of all competitors goes down at one time?

A. Practically at one time; as nearly at one time as is possible in sending out your agents or salesmen to sell goods. They find that their competitor is making, perhaps, a lower price or a higher price, and these reports come back to the headquarters and an endeavor is made to get the highest price possible; and, possibly, if there is any margin of profit

in it, to meet the market, whatever it may be, and go on with the business.

Q. If these agents do find out that others have sold at a lower price than that at which they are selling, state whether or not that is a cutting of the price on the part of those who thus sell lower.

A. I suppose that term is used.

Q. I will ask you whether or not that term was used.

A. I think the term of cutting prices is a common one.

Q. It is a common one?

A. Yes, I think so.

Q. I will ask you whether or not, in the latter part of 1900, there was upon the part of the competitors in the steel business any cutting of prices.

A. Well, now, I would say cutting of prices would mean if there was an arrangement between you and your competitors to ask for a fixed price, and you did not live up to that arrangement, and sold for less, you would be cutting prices; but I would say that if a manufacturer was going on, in a legitimate way, to do his business, and he found his competitors selling for less than he had been receiving, and he would meet those conditions, it would not necessarily be cutting a price. Cutting a price means, in my mind, doing differently from what you agree to do or understand.

Q. So that it is in that sense that you have been answering in regard to my inquiry as to cutting prices, is it?

A. I do not know that I understand you, Judge.

Q. I asked you about cutting prices. Now you have defined, as I understand you, your interpretation of cutting of prices. I merely ask you now whether the answers which you have given heretofore in regard to my inquiry as to cutting of prices were in the light of this interpretation that you have just put upon cutting of prices.

MR. LINDABURY: I object to that question. The witness has given no answer that brings that definition into it.

MR. DICKINSON: Let him answer the question.

THE WITNESS: I do not consider that there was cutting of prices during this period.

By MR. DICKINSON :

Q. Was there competition?

A. Yes, sir.

Q. Were some people selling at lower prices than had been the usual market quotations?

A. There had been a falling off in prices from a high level. For instance, I can illustrate it, perhaps: At one time, a short time before we sold to the National Steel Company, we were buying pig iron for \$9.00. That pig iron went to \$20.00, \$25.00 or \$26.00. It dropped back to \$18 or \$19, and then on back to \$15. It was the same with the product that we made.

(By request, the stenographer repeated the question as follows:)

“Q. Were some people selling at lower prices than had been the usual market quotations?”

THE WITNESS: Gradually the prices declined, and of course, everyone selling, sold at lower prices during the latter part of 1900, as I remember it, than they had previously. The market declined.

By MR. DICKINSON :

Q. State whether or not the National Steel Company, in the early part of 1900, so far as you know, was a party to any pool or agreement of any kind by which they maintained a uniform price.

MR. LINDABURY: If you know, instead of “so far as you know.” Will you not change it to read that way, Judge?

MR. DICKINSON: Yes.

THE WITNESS: I have no recollection of their having any arrangement with anyone as to prices.

By MR. DICKINSON :

Q. Have you any knowledge of any representatives of the National Steel Company, from the time of its formation down to the middle of 1900, attending any associations or meetings or committees representing competitors of that company, or where representatives of competitors of that company were present, where the question of prices was discussed?

A. No, sir.

Q. Did you yourself ever attend, from the time of the formation of the National Steel Company down to the middle of 1900, any committee or association or gathering where there were representatives of competitors of the National Steel Company, at which the question of prices was discussed?

A. No, sir; I do not recall any such meeting.

Q. Did you, from the middle of 1900 up to the time of the formation of the United States Steel Corporation, attend any such meetings as I have described?

A. I do not recall ever having attended any.

Q. Will you say that you did not?

A. I say that I do not recall ever having done it. I do not know that I should say any more.

MR. LINDABURY: You certainly ought not to, or anybody else.

By MR. DICKINSON:

Q. Mr. Wick, I will ask you whether or not during the first part of 1900, there was a general uniform price at which you and your competitors sold.

A. At a time of activity, or at any time, generally speaking, there is a uniformity of price.

Q. Did such uniformity of price prevail or not during the first half of the year 1900?

A. Practically a uniform price, I believe, prevailed; but it began to decline during 1900, and continued to decline.

Q. The latter part of 1900?

A. It began to decline, I say, some time during 1900, and continued to decline into, as I remember it, the latter part of 1900.

Q. State whether or not you or your competitors all at once declined, uniformly, or whether or not some one or the other first reduced that uniform price that had prevailed.

A. I am quite sure we did not all together.

Q. You did not all together?

A. Not to my knowledge, but as I have explained before, as we find a competitor, for any reason, desiring to get business and willing to reduce his price, when we come up

against those conditions, we have to do it, under the natural law of supply and demand.

Q. During that period of declination of prices just referred to, what was the attitude of the National Steel Company in respect of sale of billets to the general trade in interstate commerce, in competition with other manufacturers of billets?

A. I recall during that period we were very anxious for the business and sought it diligently, and acquired it, at the very best prices we could—but acquired it. We made it a special point to acquire it, because we had a large capacity and needed it.

Q. Were you or not tied up to special concerns, or did you sell it generally to the trade in interstate commerce?

A. We sold it to anyone who wanted it.

Q. Did you take an active part in the taking over of the National Steel Company by the United States Steel Corporation?

A. No, sir.

Q. Who were the active representatives of the National Steel Company and the National Steel Company interests in that transaction?

A. I do not know that I could testify. I have an idea. I imagine certain people did, and I cannot say anything further than that.

Q. Did you sell your stock?

A. I did.

Q. Did you sell it on mere rumor?

A. No, sir. I think the general set up, if it could be expressed in that way, was known to me, and I thought it was proper——

Q. (Interposing) Who made it known to you?

A. I do not recall, but I suppose it was done by those who were instrumental in doing it.

Q. Who were those instrumental in doing it?

A. As I say, I cannot give it to you positively. I think Judge Moore was interested in it.

Q. Who else?

A. And Mr. Reid.

Q. Who else?

A. Mr. Leeds. But I cannot testify positively, because I do not know.

Q. Did you have a large or small interest in the National Steel Company?

A. A very small interest, comparatively.

Q. Was it a substantial interest?

A. To me, yes, sir. In the aggregate, small.

Q. Did you or not sell on the general basis that the others sold on?

A. Yes, I think I did.

Q. From whom did you get your information direct as to what that basis was?

A. I do not know any others than the ones I have mentioned, and yet I do not recall of their definitely coming to me and explaining it.

Q. Did you talk to them about it before you sold?

A. I acquired the information somewhere, Judge, of course, and knew pretty well what I was doing. It was speculative, all of it, and there was no sure thing about it, just as there is no sure thing except death and taxes, you know.

Q. Was it a sure thing what you were going to get for your stock in that transaction?

A. No; there was not any sure thing about it.

Q. What do you mean by that?

A. That I was going to get so many dollars and cents for my stock.

Q. You mean the stock you put in or the stock you got?

A. The stock we got.

Q. But was it a sure thing as to what stock you were going to get for your stock in the National Steel Company? I mean to say, was it a sure thing before you made the transaction as to what stock in the United States Steel Corporation you were going to get for your stock in the National Steel Company?

A. I imagine it was known to me before I did it.

MR. LINDABURY: Do you think this is proper, Judge? Have you not the papers that will show this?

MR. DICKINSON: That will not show what I am trying to show.

MR. LINDABURY: He is your witness, you know, and this is not a cross examination.

MR. DICKINSON: I understand. Please read the last question and answer.

(The stenographer repeated the last question and answer as above recorded.)

THE WITNESS: Yes. I have no doubt I knew what I was going to get.

By MR. DICKINSON:

Q. Then, from whom did you get the information upon which you acted?

A. I do not recall any particular source. It was a matter of general discussion. I do not recall any particular source.

Q. Whom did you discuss it with?

A. I do not recall any particular person, but I expect quite likely I did discuss it with the other officers of the National Steel Company, and possibly with Judge Moore: I do not know. I do not recall any particular meeting or discussion of the question.

Q. I will ask you whether or not you ever talked with either Judge Moore or Mr. Reid, on that subject.

MR. LINDABURY: It seems to me that this is improper. That is certainly leading, and it is cross examination. I am therefore compelled to object to it. Further, it seems to be immaterial, and I object on that ground.

By MR. DICKINSON:

Q. I ask you whether you ever talked with either Judge Moore or Mr. Reid. You may answer the question.

A. I do not recall ever having talked with them. I may have done so.

Q. Do you recall anybody with whom you talked on that subject outside of those who, like you, had stock in the National Steel Company?

A. I do not recall having talked with anyone definitely—or vaguely.

Q. How much stock did you own in the National Steel Company?

A. I cannot answer that.

Q. Was it as much as ten shares?

A. Oh, yes.

Q. Was it as much as a hundred shares?

A. Yes, sir.

Q. Was it as much as 500 shares?

A. Yes.

Q. Was it as much as 1,000 shares?

A. Yes, sir.

MR. BOLLING: I must object to that line of inquiry. It is wholly irrelevant, it seems to me, in this case.

MR. LINDABURY: You have called these gentlemen as witnesses, and they are entitled to fair treatment. They are entitled to protection against an unreasonable prying into their affairs, it seems to me.

MR. DICKINSON: I have a perfect right to show what the holdings of every stockholder were, if I desire to do so.

MR. LINDABURY: I do not think that you feel that you ought to do that.

THE WITNESS: I have no desire to withhold any facts at all. I do not recall how much stock I had, but I expect I had as much or more than a thousand shares of the stock.

MR. DICKINSON: Well, that is all right, then. That is all, Mr. Wick.

CROSS EXAMINATION,

By MR. BOLLING:

Q. Do you remember whether J. P. Morgan & Company issued circulars to all the stockholders of the National Steel Company stating the terms on which their stock could be exchanged for stock of the United States Steel Corporation?

A. No, sir.

Q. You do not remember whether those circulars were issued or not?

A. No, sir.

Q. Do you not remember that the newspapers at that time published pretty generally the terms of the exchange offered to the stockholders?

A. No, sir. I do not remember how it was done, but I remember in a general way that we acquired a knowledge of what was done. How it was done I do not recall.

Q. Does your memory go so far as to warrant you in saying that the terms were generally known or pretty generally known to the public?

A. I imagine that that is no doubt true, that they were generally known, and certainly to those in interest, I would suppose.

Q. In the course of your direct examination you referred to a prevailing price for steel products. Has it not been your experience throughout your connection with the iron and steel industry that there has been practically at all times a prevailing price?

A. A prevailing price subject to fluctuations. Nothing is permanent at all.

Q. I mean a price pretty close to which everyone was selling.

A. Yes sir.

Q. How long did you say you had been in the iron and steel business?

A. I have been in the iron and steel business since 1876, until in the last ten years.

Q. From 1876 to 1899?

A. Yes, sir.

Q. That would be about twenty-three years. Am I correct in the assumption that it was difficult, sometimes, to ascertain what was the prevailing price, but that, as near as you could ascertain it, you kept as close to it as you could get?

A. Yes, sir; we did. Of course that has been my idea of doing those things, and I have done so so far as I could, to get all I could, but to be sure I was busy, if there was any margin in it.

Q. Naturally a study of the market conditions and demand

for different classes of steel products, would be likely to lead most of the intelligent steel makers to somewhat the same conclusions, would it not?

A. If they did not come to that conclusion any other way they came to it when they got out in the field and found what they could get for their product. But it is the same today as it always has been, so far as I know.

Q. And just as soon as they got out in the field and ascertained the actual conditions, they made the necessary adjustments?

A. Yes, I think they did.

Q. With that the case, does it not follow that violent fluctuations are due to want of information, usually?

A. Violent fluctuations are sometimes considered very savage and very foolish, but some of the very shrewdest competitors that I have ever been up against are those that have gone out in a slack market and cut prices, reduced prices very materially, the prevailing prices very materially, in order to get a large amount of business, that was good business at remunerative prices later on.

Q. To what competitors do you refer, Mr. Wick?

A. To all parties making goods similar to our own.

Q. I do not think you understand my question. When you spoke of competitors who have made these great cuts from the prevailing prices, did you refer to any one in particular?

A. Not of late years, but I had in mind one in particular.

Q. Who was that?

A. Mr. John L. Kennedy, of J. Painter & Sons, hoop manufacturers in this city years ago. In one day he acquired large contracts for hoop iron, at very greatly reduced prices, that seemed to be foolish at the time, but afterwards seemed very wise.

MR. DICKINSON: Will you please give the year while you are referring to it?

THE WITNESS: Oh, a long time ago.

MR. LINDABURY: About how long ago?

THE WITNESS: Thirty years, I suspect.

By MR. BOLLING:

Q. Do you remember what was the tonnage of rails the National Steel Company was making when the United States Steel Corporation purchased it?

A. No.

Q. Was it very small?

A. Yes; I think it was.

Q. Practically negligible from a competitive point of view?

A. Well, I am not very clear as to the exact time or the exact amount of rails made. I am very certain that there were not a great many rails made by the National Steel Company up to the time— I do not think their plant was perfected, and therefore their tonnage, I think, was comparatively light.

Q. Was not the National Steel Company occupied very largely with the furnishing of sheet and tin plate bars to the American Sheet Steel and the American Tin Plate Company?

A. Yes, sir.

Q. Do you remember whether the National Steel Company failed to fully supply the requirements of the American Sheet Steel and the American Tin Plate Companies?

A. I think there were times that they did not supply it fully.

Q. When it did not produce enough to fully supply the demands of those two companies?

A. Yes; I think there were times that they were not able to fully supply them, but I do not recall just to what extent.

Q. Then was not the sale by the National Steel Company of steel products to others than the Sheet Steel and Tin Plate Companies in the nature of the sale of an excess, in times when those companies did not require the full amount being produced?

A. I know there were times when it was very important that the country should be scoured for business.

Q. When the Sheet Steel Company and the Tin Plate Company did not need your production of semi-finished steel, then it became necessary for you to sell it outside; is that correct?

A. We sold it anywhere and everywhere, as I remember, that we could, wherever we could get the business.

Q. Naturally, when it became necessary for you to sell it outside you sold it anywhere you could?

A. Yes, sir.

Q. But when the Sheet Steel and the Tin Plate Companies were calling for more semi-finished steel than you could make, you would not have any to sell outside?

MR. DICKINSON: I object to that, because it has not been proven by this witness, and I do not think it has been proven at all, that they called for more than he could make.

MR. BOLLING: Oh, yes; he said that they could not supply them. You can ask him that, if you do not think he testified to that.

By MR. BOLLING:

Q. Did you say a moment ago that there were times when you could not supply the requirements of the American Sheet Steel and the American Tin Plate Companies?

A. Yes, sir; I think there were.

Q. At those times, if you could not supply the demands of those companies, which we have previously shown were connected through common stock ownership—that has been shown by a number of witnesses in the case, and there is no question about it—you would have little or no steel to sell outside?

A. We would not seek a trade that we were not in every-day touch with, naturally, as long as our regular, natural trade required the stuff. At any other time, we would.

Q. Was not the production of rods and bars by the Mingo Junction Plant very small indeed?

A. I think it was; yes, sir.

Q. And practically negligible, from a competitive standpoint?

A. Yes, I would think it was.

Q. Did not the situation of the Federal Steel Company prevent its being a serious competitor with you?

A. You are speaking now of the National Steel?

Q. Yes.

A. I do not think the Federal Steel Company were ever very strong competitors.

Q. You and the Federal Steel Company supplied different territory, did you not?

A. I cannot say as to them. I suppose they supplied the territory near to them, and naturally we supplied territory near to us.

Q. You merely know from your experience in handling the sales end of the business that you did not come in competition with them in your business?

A. I do not think we did very seriously; no, sir.

RE-DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Do you recall any particular time or times when the only customers of the National Steel Company were the American Sheet Steel, the American Tin Plate Company, and the American Steel Hoop Company?

A. No, sir: I do not.

Q. You say you supplied territory adjacent to you, and the Federal Company supplied territory adjacent to them?

A. That was the natural result, Judge.

Q. Are you speaking now of general impressions as to the natural result?

A. If I remember right, I said that I was not very familiar with the territory or with the trade of the Federal Steel Company.

Q. Do you know whether or not your company and the National Steel Company sold in the same territory outside of the State of Ohio that the Federal Steel Company sold in?

MR. LINDABURY: Objected to as having already been answered on previous direct examination.

THE WITNESS: I do not recall competition with the Illinois or Federal Steel Company. It certainly could not have been very active, if there was any.

Q. You say it could not have been active?

A. I say I do not think it was very active.

Q. You do not think it was very active?

A. No, sir. Our zones were different.

Q. Is it on that that you base your answers?

A. Partly; yes, sir.

Q. Have you any positive recollection that you did not compete with them?

A. No, sir; I have not.

RE-CROSS EXAMINATION,

By MR. BOLLING:

Q. If you had, in your management of the business, come in active competition with them, you would have remembered it, naturally?

A. I think I should; yes, sir.

By MR. DICKINSON:

Q. Would you have remembered that any better than you have remembered in regard to the sale of your stock, when people talked to you about it?

MR. LINDABURY: I object to that, as cross examination of the witness, and as an imputation upon his memory.

MR. DICKINSON: It is not an imputation on his memory; it is just an explanation of his memory.

MR. LINDABURY: I object to that as an improper question. It is objected to further, because it is not competent for a man to discredit his own witness.

THE WITNESS: I do not recall that I have been asked the question as to whether I sold my stock or not.

By MR. DICKINSON:

Q. I referred, in that question, to the questions that you were asked in regard to those to whom you talked in respect to the sale of your stock when it was taken over by the United States Steel Corporation; and the question was whether your memory was any sharper or better defined in regard to active competition with the Federal Steel Company than it was in regard to the matters about which you were questioned in

reference to the sale of your stock when the National was taken over by the United States Steel Corporation.

However, I will withdraw the question.

Do you recall selling in competition in interstate commerce with the Cambria Company?

A. I do not recall any instances.

Q. How about the Lackawanna?

A. I do not recall any instances.

Q. How about the Pennsylvania?

A. I do not recall any.

Q. How about the Bethlehem?

A. I do not recall any. The Lackawanna is the Buffalo concern. I do not think they were making any billets or any steel, up to the time the National Steel Company went over into the Corporation. I do not believe they were.

MR. DICKINSON: All right; that is all.

By MR. LINDABURY:

Q. Did you compete with the Carnegie Company?

A. Yes, sir.

HENRY CHALFANT,

a witness called by and on behalf of the United States,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live, Mr. Chalfant?

A. Pittsburgh.

Q. What is your age?

A. 45.

Q. What is your business?

A. Manufacturer of tubular goods.

Q. With what concern are you associated?

A. Spang, Chalfant & Company.

Q. How long have you been associated with that concern?

A. Since 1890.

Q. In what various capacities? Please just state the various employments in which you have been engaged by that company.

A. I said since 1890. The corporation was not formed then. It was 1898 or 1899 that we were made a corporation.

Q. Previous to that, there was a firm, was there?

A. Yes, sir.

Q. Were you associated with that firm?

A. I was associated with that firm from the fall of 1890.

Q. And after the formation of the corporation you have been with the corporation?

A. Yes.

MR. LINDABURY: Did he give the year of the formation of the corporation?

THE WITNESS: 1898 or 1899.

By MR. DICKINSON:

Q. In what capacities were you employed or did you serve while it was a partnership?

A. I was at the works in a sort of a clerical capacity for three or four years; then down at the city office as a clerk there; general clerical duties.

Q. Were you ever connected with the sales department?

A. Oh, yes.

Q. When did your connection with that department begin?

A. About 1895, I suppose.

Q. How long did your connection with the sales department continue?

A. Five or six years.

Q. From 1895 to along about 1900?

A. 1900 or 1901.

Q. Since then what positions have you held?

A. I have been treasurer, vice-president and president of the company.

Q. During the period that you were connected with the sales department, state whether or not it was your duty to know the trade to which you sold.

A. Yes.

Q. And whether or not that extended to knowledge of the competitors in that trade.

A. Yes, it did.

Q. In what business have Spang, Chalfant & Company been engaged? I do not know whether I asked you that or not.

A. In the manufacture of tubular goods; pipe and tubes.

Q. Pipe and boiler tubes?

A. Yes.

Q. Where did you sell those goods during the period from 1890 up to, say, 1901?

A. We sold them throughout the country.

Q. Do you mean by that this country—the United States?

A. Yes.

Q. State, Mr. Chalfant, what companies or manufacturers, whether companies or corporations, sold as competitors of your company in the same territory. Just name them, will you?

A. The Reading Iron Company, the National Tube Company, the Riverside Iron Works, A. M. Byers Company, and the American Tube Company.

Q. That is, the American Tube & Iron Company?

A. The American Tube & Iron Company perhaps. That is the one I refer to, at any rate.

Q. Did you mention the National Tube Company or not?

A. The National Tube.

Q. Did you mention them?

A. I think so. I intended to.

Q. I will ask you about the Allison Manufacturing Company.

A. Yes.

Q. How about the Chester Pipe & Tube Company?

A. Yes.

Q. How about the Cohoes Company?

A. Yes, they were one.

Q. How about the Delaware Iron Company?

A. I know them as Morris-Tasker & Company. I did not remember them as the Delaware Iron Company.

Q. How about the Oil Well Supply Company?

A. Yes.

Q. The Pennsylvania Tube Company?

A. Yes.

Q. The Riverside Iron Works?

A. I mentioned them.

Q. The Syracuse Tube Company?

A. Yes.

Q. The Western Tube Company?

A. Yes.

Q. Are there any others that you have not named and that I have not named, that you recall?

A. There was the Harrisburg Pipe & Pipe Bending Company, that started to make pipe about 1900, I think, if not before that time.

Q. What of the concerns named competed with Spang, Chalfant & Company in boiler tubes?

A. The National Tube Works; the Reading Iron Company; the Syracuse Tube Company; the American Tube & Iron Company; Allison and Morris-Tasker.

Q. That is the Delaware Iron Company?

A. Yes.

Q. I will ask you how about the Chester Pipe & Tube Company?

A. They did not make tubes.

Q. How about the Cohoes Tube Company?

A. I do not think they made boiler tubes.

Q. How about the Pennsylvania Tube Company?

A. No.

Q. The Riverside Iron Works?

A. No.

Q. The Western Tube Company?

A. No.

Q. Then those you have specified competed in boiler tubes?

A. In boiler tubes; yes, sir.

Q. The others competed in pipes?

A. In pipes, yes.

Q. Did all of them compete in pipes or not, of those that you have named?

A. Some of them only made tubes.

Q. Some of them only made boiler tubes?

A. Yes.

MR. LINDABURY: He did not say boiler tubes.

THE WITNESS: Boiler tubes.

MR. LINDABURY: Some of them only made boiler tubes?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Will you name those that only made boiler tubes?

A. The Syracuse Tube Company; Tyler—I do not know whether that is the Tyler Tube & Pipe Company; perhaps it is, but they only made boiler tubes, to my remembrance.

Q. Do you recall any others that made boiler tubes alone?

A. No.

Q. The National Tube Company; did they make both pipes and boiler tubes?

A. Yes.

Q. And competed with your company in both?

A. Yes.

Q. In territory generally throughout the United States?

A. Yes.

MR. LINDABURY: Do you mean to classify all tubes as pipes except boiler tubes?

MR. DICKINSON: Pipes and boiler tubes are the two general classifications.

THE WITNESS: That is the trade name. A tube, in the trade, means a boiler tube.

MR. LINDABURY: And all other tubes are classified as pipe? That is what you mean to do?

THE WITNESS: That is what I am doing, yes.

MR. LINDABURY: I only wanted to understand you; that is all.

By MR. DICKINSON:

Q. State whether or not, before the National Tube Company was formed, there were any negotiations between that company and Mr. Converse and Mr. Cromwell as to the pur-

chase by them or taking over by them of the National Tube Company of the works of Spang, Chalfant & Company.

A. Yes, there were negotiations of that kind conducted. One moment, I should correct that. I did not understand. You were asking about before the formation of the National Tube Company, whether there were any negotiations between our company and the National Tube Company?

Q. No, between your company and Mr. Converse and Mr. Cromwell, with a view of their taking over your company under the combination that they were then making.

A. Yes; there were.

Q. Did it or not result in the purchase of your company's properties?

A. It did not.

Q. How did these negotiations originate?

MR. LINDABURY: That is objected to as irrelevant and immaterial.

THE WITNESS: They originated by Mr. Converse telling me about it, I think; outlining his plans.

By MR. DICKINSON:

Q. Mr. Chalfant, state whether or not there was an association called the Lap Weld Boiler Tube Association.

A. No, sir; there was not any such association. It was not called that. There was an association.

Q. What was it called?

A. It was not called anything in particular. It was an association of people interested in the manufacture of boiler tubes.

Q. When did it begin?

A. I can not be sure. It was 1896 or 1897.

Q. Who were the persons who came together in that assembly or meeting or whatever it was?

A. Mr. Converse, Colonel Tyler, some representative from the Reading Iron Company, somebody from Allison, somebody from Syracuse, and some representative from Spang, Chalfant & Company.

Q. What concern did Mr. Converse represent?

A. The National Tube Works Company.

Q. State whether or not, before the National Tube Company was organized, any of the concerns that subsequently went into the National Tube Company belonged to this assemblage.

A. Yes; some of them.

Q. What were they?

A. Syracuse; Morris Tasker; American Tube & Iron; Allison.

Q. How about the Pennsylvania?

A. The Pennsylvania was not in that tube association; not then, at any rate.

Q. Did this association or assemblage have a secretary?

A. Yes.

Q. Who was the secretary?

A. Mr. Timmons.

Q. What is his first name?

A. George.

Q. Where is he from?

A. Syracuse.

Q. Did or did not those who participated in these meetings have any allotments of percentage of product?

A. I think not at the organization; not at first.

Q. How was it afterwards?

A. Afterwards they did, yes.

Q. Did the National Tube Company have any allotment?

A. Yes.

Q. What was the allotment to the National Tube Company?

A. I don't know that I can tell you.

Q. Have you an idea as to about what it was?

A. Oh, yes; it was about—no, not before the National Tube Company was formed.

MR. SEVERANCE: You used the term the National Tube Company. You meant the Tube Works Company, did you not?

MR. DICKINSON: No; I meant the National Tube Company.

THE WITNESS: The National Tube Company, that would

be about 50 per cent., I would say. It may have been more or less.

By MR. DICKINSON:

Q. What did this association—no, I will not call it an association, because I do not want to call it anything objectionable—but what did this aggregation of companies and individuals do?

A. They met and discussed trade conditions; and we had parties and golf matches, and we would have a dinner when we met.

Q. What were the duties of the secretary?

A. The secretary collected contributions from the different associates, and paid the bills.

Q. Were any reports made to the secretary?

A. Yes.

Q. Did the secretary make any reports to the members?

A. Yes.

Q. What did these reports show?

A. They showed the amount of business.

Q. The business that was done?

A. The business that was done in boiler tubes.

Q. The business of the various members?

A. Yes.

Q. Did it show their percentages?

A. Yes.

Q. What occurred, if anything, if any member or any one of these in these gatherings exceeded the percentages that had been allotted?

MR. LINDABURY: Objected to. He has not said that any percentage was allotted.

MR. DICKINSON: Oh, yes, he has so testified.

MR. LINDABURY: I think not.

By MR. DICKINSON:

Q. You said that there were percentages, did you not?

A. I do not remember telling you so, but there were, as a matter of fact. You asked me if the secretary showed the percentages of the business that had been done.

MR. DICKINSON: I will ask the stenographer to read what he said about the allotment.

(The stenographer read as follows:)

“Q. What was the allotment to the National Tube Company?”

“A. I do not know that I can tell you.

“Q. Have you any idea as to about what it was?”

“A. Oh, yes; it was about—no, not before the National Tube Company was formed.

“MR. SEVERANCE: You used the term the National Tube Company. You meant the Tube Works Company, did you not?”

“MR. DICKINSON: No; I meant the National Tube Company.

“THE WITNESS: The National Tube Company, that would be about 50 per cent, I would say. It may have been more or less.”

By MR. DICKINSON:

Q. Did the other members have percentages allotted to them?

A. Yes.

Q. Did these reports sent out by the secretary to the various members show the sales made by the various members?

A. Yes.

Q. If any member exceeded the percentage allotted to that member, what was done, if anything?

A. He made a payment.

Q. What was the payment, and what was the basis?

A. I cannot say. It was a small payment, made when he exceeded his allotment.

Q. You cannot recall what it was?

A. No, sir.

Q. How long did these meetings continue?

A. They continued until the spring of 1906.

Q. How long did Mr. Converse continue to attend those meetings?

A. He was there off and on until almost the last.

Q. Did he attend any meetings in 1906?

A. Yes; I think he did.

Q. What Mr. Converse was that?

A. Mr. E. C. Converse.

Q. How often were meetings held?

A. Usually once a month.

Q. Did you have any written agreement?

A. No, sir.

CROSS EXAMINATION,

By MR. REED:

Q. You say the payments were small, Mr. Chalfant. It is a fact, is it not, that they were only sufficient for the dinners and expenses of the meetings, usually?

A. No; they were a little more than that; but it was a small amount.

Q. It was not a sufficient percentage to deter any member from taking an order?

A. No, sir.

Q. And it was not intended to keep the members down to their allotments, was it? It was not——

MR. DICKINSON: Let him answer your question before you ask another one.

MR. REED: I am going to ask him two questions in one.

By MR. REED:

Q. Was it not intended simply as a source of raising the money necessary to pay for those meetings?

A. No; not altogether that. It was a small payment, if any one exceeded his allotment in any one month.

Q. You do not remember how much per ton it was?

A. No, I do not. My idea is that if anyone sold, say, in money, \$2,000 a month, then he was required to pay in five or ten per cent of that \$2,000, or something of that sort. That is the way it was fixed up, as I recall it.

Q. You spoke of a Mr. Converse being there in the year 1906. Is it not a fact that at that time he had ceased to be active in the affairs of the National Tube Company, and was there simply as an old friend?

A. He was there more in that capacity than in any other, yes.

Q. At those last meetings he did not represent any particular company, but was there simply for the social enjoyment of the meeting?

A. He was there more for the social enjoyment of the meeting, although he wanted to keep that connection, and we wanted him to do so, with the National Tube Company.

Q. In naming competitors of your company at the time that the National Tube Company was formed, did you name the Monongahela Tube Company?

A. No, I did not.

Q. That was one of them, was it not?

A. That was one of them. They do not make tubes, though.

Q. They make pipes?

A. Yes.

Q. The Conshohocken Pipe Works made some pipe, too?

A. Yes.

Q. The Tyler Pipe & Tube Company made tubes, mostly?

A. Made boiler tubes, yes.

Q. What did Worth Brothers make?

A. They made locomotive boiler tubes.

Q. Was the Crane Company making tubes at that time?

A. They made pipe.

Q. The South Chester Company was started afterwards, I believe, after the formation of the National Tube Company?

A. Yes, sir.

Q. This association that you speak of, that Mr. Timmons was secretary of, was in boiler tubes, was it not?

A. Yes.

Q. And they had no control over the prices of pipes?

A. They had nothing to do with the pipe business.

Q. What percentage of the tube industry of the United States did boiler tubes consist of in tonnage?

A. In tonnage, very small; I should say under ten per cent.

Q. Mr. Chalfant, when your corporation was formed, in 1898, what was its capital?

A. \$900,000.

Q. How much of that had been issued; had all of it been issued?

A. All of it.

Q. What was its capital in 1901, when the Steel Corporation was formed? Say, April, 1901; what was its capital then?

A. \$900,000.

Q. What was its capacity in 1898, in tons?

A. About 60,000 tons.

Q. 60,000 tons per annum?

A. In 1898, yes; I should say so.

Q. In 1901 about how many tons was its yearly capacity?

A. In 1901 its capacity was about 69,000 or 70,000 tons.

Q. Was that its yearly capacity?

A. Per year, yes.

Q. At the present time what is the capital of your company?

A. \$1,800,000.

Q. Has your Company any bonded debt?

A. No.

Q. What is its annual capacity in tons?

MR. DICKINSON: I will except to the last two questions as irrelevant and incompetent.

By MR. REED:

Q. Answer the question.

A. About 200,000.

MR. REED: That is all.

(Witness excused.)

(Thereupon, at 12:25 o'clock p. m., a recess was taken until 1:45 o'clock p. m.)

AFTER RECESS,

At the expiration of the recess the hearing was resumed.

SAMUEL A. BENNER,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live, Mr. Benner.

A. Pittsburgh.

Q. What is your age?

A. Forty-one.

Q. In what business are you now engaged?

A. I am not engaged in any business at present.

Q. When were you last engaged in business?

A. Up to the first of this month.

Q. In what kind of business were you engaged?

A. I was assistant to the president of the Pittsburgh Steel Company.

Q. Were you ever connected with the various Carnegie Companies, including the partnership and the corporation? If so, please state when that connection began, and the various capacities. Just answer that all in one answer, please.

A. I was employed as clerk early in September, 1888, by Carnegie, Phipps & Company, Limited, and was in their employ until they were absorbed into the Carnegie Steel Company, Limited, in 1892. I continued in the employ of that company until September 1, 1902, and I came back to them September 1, 1904, and remained in their employ until January 1, 1911.

Q. Please state the various duties you performed; the capacities in which you served.

A. I think it was in the year 1889 they organized a sales department in Carnegie, Phipps & Company, Limited, and I

was a clerk in that department. As the business grew, the department grew. I was appointed manager of sales for the Republic of Mexico in the latter part of 1898, and I retained that position for several years. I think it was in 1900 or 1901, probably about a year's time, I was special representative traveling in Europe and South America.

Q. What office were you attached to in Europe?

A. The headquarters of the Carnegie Steel Company in London.

Q. Were you attached to that office?

A. No, I was attached to the Pittsburgh office.

Q. What kind of duties were you performing in traveling in Europe?

A. I started on my way to South America, and went via Europe. When I was over there, the amount of the business was so great that they asked me to stay for four or five or six months to help them out.

Q. Help them out in what?

A. In handling the business of the London office.

Q. In sales?

A. Yes.

Q. What did you have to do, if anything, with the sales department in 1895, 1896 and 1897, until you went away in 1898?

A. I think it was from 1892 until 1898 I was chief clerk in the sales department in Pittsburgh.

Q. What was the course of business of the Carnegie Company throughout the time you were with them, in regard to getting business, in competition?

A. At what time do you mean?

Q. Prior to the organization of the United States Steel Corporation.

A. They were very successful.

Q. State whether it was an aggressive or a non-aggressive company:

A. It was very aggressive.

Q. Which was the largest company in the steel business

in the United States prior to the formation of the United States Steel Corporation?

A. The Carnegie Steel Company.

Q. Which was the largest competitor of the Carnegie Company at the time of the formation of the United States Steel Corporation?

A. I think the Federal Steel Company was, inasmuch as it owned the Lorain Steel Company and the Illinois Steel Company. Yes, it must have been.

Q. Answer this same question in respect to interstate commerce. What do you answer to that?

A. I think probably the next would be Jones & Laughlin.

Q. No, not the next one. Just answer the same question, in respect to interstate commerce.

A. My answer will apply to interstate commerce.

Q. Which was the next largest competitor in interstate commerce of the Carnegie Company prior to the formation of the United States Steel Corporation?

A. I presume the Cambria Steel Company and Jones & Laughlin would be the next.

Q. Name the other largest competitors?

A. The Lackawanna Steel Company, the Pennsylvania Steel Company, the Maryland Steel Company, the National Steel Company, and the Tennessee Coal, Iron & Railroad Company.

Q. Which was the largest competitor in rails of the Carnegie Company at the time the United States Steel Corporation was formed?

A. The Illinois Steel Company.

Q. In the year 1900 which was the largest competitor of the Carnegie Company in foreign trade? I mean, of the American companies in sheet and tin plate bars.

A. The National Steel Company.

Q. I believe you stated that at that time you were in London engaged in the sale of the products of the Carnegie Company?

A. Yes, sir.

Q. And that you were traveling generally in Europe making those sales; is that correct or not?

A. I was not absolutely charged with the work, but I was familiar with it.

Q. When did the Carnegie Company first acquire any considerable control of ore properties?

MR. LINDABURY: Of course this is of your own knowledge.

THE WITNESS: It is all hearsay on my part. Somewhere around—

By MR. DICKINSON:

Q. You need not give hearsay.

A. Somewhere around about—

MR. LINDABURY: Counsel withdraws the question, and of course, you understand that Judge Dickinson only means to ask you for knowledge, not hearsay.

By MR. DICKINSON:

Q. Before the formation of the United States Steel Corporation, state who was the most conspicuous, dominating personality in the steel business in the United States.

A. Mr. Carnegie.

Q. How long had he been so?

A. For many years.

Q. What was the policy pursued by the Carnegie Company as to the character of its plants and the equipments?

A. They were supposed to be the best in the country.

Q. Mr. Benner, during the time that you were in this country and connected with the various Carnegie organizations that you have described, state where that company sold, in the United States, billets, sheet and tin plate bars, rails and the other products which it made.

MR. LINDABURY: I object to that. It does not appear that this witness had to do with the selling end of the business.

MR. DICKINSON: Oh, yes; he was in charge of the sales department.

MR. LINDABURY: In this country?

MR. DICKINSON: Yes.

MR. COLTON: He said he was chief clerk of the Carnegie Company.

THE WITNESS: You mean, before or after the formation of the United States Steel Corporation?

By MR. DICKINSON:

Q. Before the formation of the United States Steel Corporation.

MR. LINDABURY: If he knows, of course.

THE WITNESS: They sold numerous concerns billets and sheet bars.

By MR. DICKINSON:

Q. In what territory did they sell in the United States?

A. Billets and sheet bars were mostly used in and around Pittsburgh; and Ohio, and Indiana, and Illinois.

Q. How about rails?

A. They sold rails all over the United States.

Q. How about structural material?

A. All over the United States.

Q. If at any time any sharp competition or fight in rails occurred between the Carnegie Company and any other company, please state what it was and how it was characterized, whether it extended to any other products, and how long it lasted, and how it affected other concerns.

A. There was very sharp competition around about 1896 or 1897 between the Illinois Steel Company and the Carnegie Steel Company, especially in rails, and I think the price of rails went the lowest it ever has in the history of the country during that time.

Q. How low did it go?

A. My recollection is that it went as low as \$14, Pittsburgh.

Q. Please state whether or not the contest, begun in respect to rails, extended to other products.

A. My recollection is that it began with rails and extended to all other products.

Q. Did it involve any other of their competitors?

A. Certainly.

Q. How long did this contest continue and how long before there was any readjustment, if any readjustment of prices took place?

A. I should say it lasted from six months to a year.

Q. Did you ever hold any such position as first assistant to Mr. Bope?

A. When I was general manager of sales he was my immediate superior.

Q. Did you at any time, either in company with Mr. Bope or by yourself, represent the Carnegie Steel Company, after the formation of the United States Steel Corporation, at the meetings of any committee?

A. Yes, sir.

Q. What committees did you attend, and who composed them, so far as you recollect, and what concerns did these representatives represent?

A. I have no recollection of attending any meetings prior to the winter of 1907 and 1908. I may have attended some, but I do not recollect it.

Q. State what ones you attended after November, 1907.

A. After the winter of 1907-1908 I attended some meetings, either alone or in company with Colonel Bope or Mr. Dinkey. Those meetings were in connection, as I recollect—

Q. Wait a minute. Do you mean after the winter of 1908?

A. Yes, during the winter or after the winter.

Q. The winter of 1908.

MR. LINDABURY: You once said "1907-1908."

MR. DICKINSON: That is what I am trying to get at, what winter it was.

THE WITNESS: Make it the panic of 1907. That is what I mean.

By MR. DICKINSON:

Q. (Continuing). How long? We will put it that way.

A. For something like a year and a half.

Q. That is, you began after the panic of 1907 and continued about a year and a half from that time?

A. Yes.

Q. What committees?

A. Those committees were in connection with light rails, billets, sheet bars, bar mill products, and I think also in connection with plates. I am not quite sure.

Q. How were those committees divided—rails and billets?

A. Rails and billets go together, yes.

Q. State what manufacturers were represented, and as far as you can who represented them on this committee on rails and billets.

A. Carnegie Steel Company; Illinois Steel Company; Republic Iron & Steel Company; Lackawanna Steel Company; Cambria Steel Company; and Jones & Laughlin Steel Company.

Q. Who represented these various companies, from time to time, beginning with the Carnegie Company?

A. So far as the Carnegie Steel Company was concerned, it would be Mr. Dinkey or Colonel Bope, or maybe the three of us, or maybe the two of us.

Q. How about the Illinois Steel?

A. It was usually represented by Mr. George Baker.

Q. How about the Cambria?

A. Mr. Fred Krebs.

Q. How about the Lackawanna?

A. The Lackawanna was represented at that time by H. Sanborn Smith.

Q. How about the Pennsylvania?

A. Mr. H. F. Martin.

Q. How about the Republic?

A. Mr. Tracy Guthrie, I think.

Q. Now, take the committee on bars. What manufacturers did they represent?

A. The Carnegie, Illinois, Republic, the Lackawanna, the Cambria, and Jones & Laughlin.

Q. Who represented those several companies on that committee?

A. The same men, with Mr. Geddes for Jones & Laughlin, and sometimes Mr. King.

Q. Did you attend any meetings of the committee on plates?

A. I do not recollect any.

Q. How often did these meetings take place?

A. I suppose they were two to three months apart.

Q. Was there any fixed time for them?

A. No fixed time.

Q. Now, Mr. Benner, please state what was said and done at those meetings by the various representatives of these manufacturing concerns that were there.

A. Well, the first would be a general talk over conditions, and usually a statement on the part of the Carnegie and Illinois Steel Companies' representatives as to what their attitude would be as to prices, and with the hope extended that the other competitors would do likewise.

Q. What did the others do?

A. They usually did as we did for a time.

Q. I mean in the meetings, what did they do?

MR. LINDABURY: What did they say, you mean, do you not, Judge?

MR. DICKINSON: Yes.

THE WITNESS: I have no recollection whether they said—they never said absolutely that they would do anything.

By MR. DICKINSON:

Q. They did not enter into any agreement to do anything?

A. No, sir.

Q. You had no written agreement?

A. No, sir.

Q. You had no penalties?

A. No, sir.

MR. LINDABURY: He said they had no agreement.

MR. DICKINSON: Then they had no written agreement.

MR. LINDABURY: And no penalties.

By MR. DICKINSON:

Q. What announcements, after the Carnegie and Illinois Steel Companies made their announcements as to their prices, that they expected to maintain, would be made by the others?

MR. LINDABURY: I object. It does not appear that any announcements were made.

By MR. DICKINSON:

Q. Were any announcements made by the others?

A. You mean at these meetings?

Q. At those meetings, yes.

MR. LINDABURY: I object. That has been answered. The witness says that they said nothing.

MR. DICKINSON: Now, Mr. Lindabury, I think I have a right to examine the witness without your anticipating his answers and answering for him.

MR. LINDABURY: I beg your pardon. I do not think you have a right to ask a question several times.

MR. DICKINSON: Everything you say I will have to have put down in the record, because I regard that as an interference with the examination. Of course any exceptions or objections are proper, but conversation aloud, conversation of that kind, I do not think is proper.

MR. LINDABURY: That was not a conversation aloud. It was an objection that I intended to have go on the record.

MR. DICKINSON: I do not care what you say, so long as it goes on the record.

MR. LINDABURY: I object to counsel cross examining his own witness or attempting by the change of a word to change the effect of an answer.

By MR. DICKINSON:

Q. State whether or not, after statements were made by the Carnegie Company and the Federal Company as to prices, whether statements were made by the representatives of any other manufacturers at those meetings as to prices?

A. Well, in general they might have said that they expected to do the same.

Q. Was any announcement made, or not, that they would maintain a different price?

A. I have no recollection of that.

Q. Did you make any of those announcements at meetings where you were present representing the Carnegie Company?

A. Well, I would take my share in the conversation, yes.

Q. You took your share of the conversations. When you made these announcements as to your prices, did you or not expect the others to rely upon your selling at that price?

MR. LINDABURY: Objected to as irrelevant and immaterial.

By MR. DICKINSON:

Q. Please answer the question.

A. What was the question?

(The question was repeated by the stenographer as above recorded.)

A. Yes, sir.

By MR. DICKINSON:

Q. State whether or not when announcements were made by others, representing your competitors, you relied upon their selling at that price.

A. Within limits, yes.

Q. Within what limits?

A. That they would approximate it.

Q. In what way?

A. Well, they did not live up as closely to the schedule of prices as either the Carnegie or the Illinois Steel Company did.

Q. But you did rely upon the statements that they made that they would approximately do it?

A. Yes, sir.

Q. Were any announcements made subsequent to these meetings, in that trade, as to prices?

A. There may have been from time to time.

Q. What is your recollection?

A. My recollection is that there were.

Q. State whether or not these announcements were in accord with the prices that had been announced by the Carnegie Steel Company and the Federal Steel Company at these meetings.

A. Yes, sir.

Q. State whether or not generally the Carnegie Company sold at those prices; and if it changed at any time, what would bring about such change.

A. They usually sold at those prices, until too many of their competitors cut them, when it would be necessary to meet the competition.

Q. Would there or not be any meetings following such action or preceding it?

A. Yes; it was very likely, when a change like that happened, that there would be a further meeting.

Q. What would take place at those meetings which came in consequence of a cutting or change in price?

A. A readjustment of the schedule of prices of the Carnegie and Illinois Steel Companies.

Q. Would any question or not be raised in respect of any one cutting prices, at any of these meetings?

A. Yes; there would usually be a discussion on that.

Q. Just state what would be the character of that discussion; what would be said and what would be done.

A. The cuts were pointed out and discussed.

Q. Would the name of the person who made the cut be brought up?

A. Yes; very often.

Q. What character of discussion would follow that in respect to such action on the part of the one cutting?

A. I do not understand.

Q. What would be the procedure, where you had a meeting which came about on account of a cutting in price?

A. The procedure would be to discuss the cut.

Q. Would anything be said or not about the man or to the man who had made the cut?

A. Yes.

Q. Of what character?

A. Sometimes recrimination; sometimes feeling would be expressed.

Q. Recrimination about what?

A. About the cut.

Q. About the cut?

A. About the cut. It was unnecessary, probably, in the judgment of somebody else.

Q. What would be said from time to time in defense or in explanation of these cuts?

A. Usually the other man would claim that somebody else had done it.

Q. You mean——

A. (Interposing) Some other competitor.

Q. Some competitor who had been attending these meetings, or some outside competitor?

A. It might be either or both.

Q. What would you do, if anything, as to the question of prices, before you left that meeting?

A. The Carnegie and Illinois Steel Company's representatives would usually say that they would maintain such and such a price.

Q. What would the others say?

A. In general, they would say that they thought the prices were about right, and they expected to do the same.

Q. Mr. Benner, state what was the effect of these meetings, from time to time, in regard to the maintenance of prices.

MR. LINDABURY: We object to that as calling for the witness's opinion.

MR. DICKINSON: I think he is giving a pretty good one.

MR. LINDABURY: It may be good; but it is not evidential.

By MR. DICKINSON:

Q. Answer the question.

A. It tended to maintain prices stable.

Q. Did any question ever arise at any of these meetings in the nature of a complaint on account of a customer being taken away by some other of those who had participated in these meetings?

A. Yes.

Q. What would that lead to, if anything?

A. That often led to a cut.

Q. I mean, though, in the meetings would these questions arise?

A. You could not do anything. The customer had gone.

Q. What do you mean by "lead to a cut, often"?

A. For instance, if one maker would have a customer to whom he had been supplying goods for several years, and some other competitor would slip in and take that buyer away from him, the presumption was that it was only possible to do that by means of a cut in price. Consequently the buyer

who had lost that customer would cut prices to somebody else's customer.

Q. That would be out in the trade, would it?

A. Yes; speedily.

Q. What would that lead to, if anything?

A. It usually led to a general reduction in the market. While the open schedule of published prices would remain the same, yet the actual sales would be made at a lower rate. When that situation got serious, another meeting would take place.

Q. What would be the result of that meeting?

A. The result of that meeting was that the Carnegie and Illinois Steel Companies would change their price to suit the real market conditions.

Q. Would announcements be made in respect to that, as had been done previously?

A. Yes; they would usually be made.

Q. By all parties?

A. By somebody. It would appear in the trade papers.

Q. The announcement of prices would appear in the trade papers?

A. Yes.

Q. What proportion of those in the iron and steel business producing products of like character were represented in these meetings? That is, what proportion of the whole?

A. I presume 75 to 90 per cent.

Q. What was the condition of the steel business in the latter part of 1907 in respect to stocks on hand?

A. The stocks of iron and steel products in the hands of jobbers, manufacturers and consumers at the time of the panic of 1907 were very, very heavy.

Q. Did any immediate and large reduction occur just after the panic of 1907?

A. No, sir.

Q. What was done in respect to prices and the stocks on hand?

A. The Carnegie and Illinois Steel Companies did their best to hold the prices up, to enable the possessors of these stocks to dispose of them.

Q. When was any material change made in prices?

A. I don't think it was until the summer of 1908.

Q. What was the amount then, about?

A. Two or three dollars a ton. The amount of the cut was two or three dollars a ton.

Q. How long did those prices continue?

A. I could not say, offhand. My recollection is, though, for thirty to sixty days.

Q. What followed that cut in prices?

A. Generally speaking, the market was well maintained until February, 1909. In my recollection there was a heavy cut then.

Q. In 1909?

A. Yes; followed with a very drastic cut in April.

Q. How long did that continue?

A. You mean, after April, 1909?

Q. Yes.

A. About two or three months. Then the market started up again.

Q. Do you remember about what time that cut in 1909 began?

A. February.

Q. Do you remember the date?

A. No.

Q. Well, that is not important. You have referred to a large stock on hand in 1907, after the panic began. How long was it before those stocks were practically disposed of?

A. Six to eight months.

Q. After those stocks were disposed of, what was the attitude of the trade in respect to prices as compared with what it was when those stocks were on hand? I mean, the purchasers?

A. They wanted lower prices.

Q. When did they begin to ask lower prices?

MR. LINDABURY: To ask for lower prices, you mean?

THE WITNESS: I think in the summer of 1908.

By MR. DICKINSON :

Q. When were lower prices made, if at all?

A. In the summer of 1908.

Q. What was the amount of that reduction?

A. Two or three dollars a ton.

Q. Was that a substantial reduction or a small reduction?

A. It was a substantial reduction.

Q. State whether or not that brought in business.

A. Not very much.

Q. Why didn't it?

A. The country did not need the steel.

Q. When was there a revival of business, if at all?

A. Not until the early spring of 1909.

Q. Was there a reduction then or not?

A. Yes, sir.

Q. How heavy was that reduction?

A. It was a very heavy reduction.

Q. How did that affect business?

A. I think the railroads saw there were bargains, and started to buy.

Q. Did it stimulate business or not?

A. It stimulated business.

Q. Generally?

A. Yes.

Q. Can you state from memory approximately the schedule of prices that was in effect on or about June 10, 1908 for the various products?

MR. LINDABURY: I object to that. He has not said any schedule of prices was in effect, except—

MR. DICKINSON: Very well; take out the word "schedule" and put in "prices."

MR. LINDABURY: He has not said that any schedule of prices was in effect except by the Carnegie and Illinois Steel Companies.

THE WITNESS: I think the billets and sheet bars were \$25 to \$26; plate, shapes and bars about \$1.50 to \$1.60.

By MR. DICKINSON:

Q. What about structural iron?

A. That is plate, shapes and bars. That is shapes and structural.

Q. Do you know what reduction, if any, was made in merchant pipe?

A. No.

Q. How about wire nails?

A. No, sir.

Q. Do you know whether or not there was an announcement to the trade of prices?

A. Yes, sir.

Q. I show you an article here in the Iron Trade Review, June 11, 1908, and ask you whether or not you can say that that announcement was made.

I will first show the article to counsel.

MR. LINDABURY: This witness was not present at that meeting, I suppose?

MR. DICKINSON: No; I am not asking about the meeting. I am asking if this announcement was made.

MR. LINDABURY: How could he know?

MR. DICKINSON: I am asking whether he knows. He has just said the announcement was made.

MR. LINDABURY: He has seen that publication, I suppose.

MR. DICKINSON: I don't know whether he has or not.

MR. LINDABURY: I do not see upon what legal theory you are showing that. That is refreshing his recollection about something that he has had no previous connection with.

MR. COLTON: He can state whether there was an announcement or not.

MR. LINDABURY: You cannot, properly—

MR. DICKINSON: Let us see whether we can or not.

MR. LINDABURY: I say that you cannot properly do it.

THE WITNESS: (After inspecting the publication referred to) I have no reason to doubt that that was made.

By MR. DICKINSON:

Q. Have you any recollection about it?

A. Yes; I have a recollection of it.

By MR. LINDABURY:

Q. You have a recollection of seeing it in the paper?

A. I have a recollection of the announcement being made by Judge Gary.

Q. In your hearing?

A. No. By public press. I saw it in the public press.

Q. That is what I mean, yes.

By MR. DICKINSON:

Q. Look at the prices that are announced there, and state whether or not those are the prices that were followed after the date given in that paper.

MR. LINDABURY: I object to that as an improper method of refreshing the recollection of the witness.

THE WITNESS: (After inspecting the publication referred to) I think they were.

CROSS EXAMINATION,

By MR. LINDABURY:

Q. I understand you are not connected in any way with the steel business at this time?

A. No.

Q. And you have no connection any longer with the Carnegie Company or the Steel Corporation?

A. No, sir.

Q. When was it that you were abroad?

A. In the latter part of 1898 I went to Mexico.

Q. How long were you there?

A. I think until the middle of 1900.

Q. Then you went abroad, did you?

A. I was in Europe in the middle of 1900; in the middle or latter part.

Q. How long were you there?

A. I was there for some months.

Q. It is only a matter of months?

A. Yes, sir.

Q. And you were in South America a while?

A. Then I went to South America, and came back to the United States in the latter part of the year 1901.

Q. While you were in Europe you say that the National Steel Company sold billets over there?

A. Yes; billets and sheet bars.

Q. In considerable amount?

A. My recollection is yes.

Q. Could you be positive about that?

A. I think so.

Q. Do you not think you could be mistaken, as to quantity, I mean?

A. No, I think they sold heavily.

Q. Did it pass through your hands in any way?

A. No. They were competitors.

Q. How were you able to gauge the amount they sold?

A. By the reports of the steel trade in London.

Q. You have not looked up the records, have you?

A. No, sir. It is purely recollection.

Q. So they established quite a considerable trade there, you think, in bars and billets?

A. Yes, sir.

Q. Were you selling bars and billets for the Carnegie Company there?

A. No. The office was.

Q. Just what was your duty there? I did not quite catch it.

A. I was on my way to South America, and the business of the office was quite heavy, and so Colonel Hunnsiker asked me to stay there for a few months to help him.

Q. He was the representative of the Carnegie Company, and what was the Carnegie Company selling there?

A. They were selling rails.

Q. What products?

A. Rails and ship plates, and shapes, bars, billets, and sheet bars.

Q. Did they have considerable foreign trade?

A. Yes.

Q. In Europe?

A. Yes.

Q. Did they also have foreign trade in South America?

A. Yes.

Q. Did the Federal Company have any foreign trade in Europe at that time?

A. I think they did, in rails.

Q. What kind of rails?

A. Standard rails.

Q. Are you sure about that?

A. Pretty sure; reasonably sure.

Q. Did you ever meet any of their competition over there?

A. Not that I recollect.

Q. Was it not girder rails only that they sold there?

A. It may have been, yes; it may have been girder rails.

Q. That is, for street cars?

A. Yes.

Q. In South America did the Carnegie Company have trade?

A. Yes, especially with the Argentine.

Q. In what products?

A. Bars, rails, plates and shapes.

Q. Did the National have any trade there?

A. Not that I recollect.

Q. Did the Federal have any trade there?

A. Not that I recollect.

Q. In this country what were the products of the Carnegie Company at that time? I mean their leading products?

A. Rails, blooms, billets, slabs, sheet bars, structural shapes, bars, axles and armor plate.

Q. Did they sell any of those in the Eastern States?

A. Yes, sir.

Q. They sold a good many, I take it, along the Atlantic Seaboard, did they not?

A. Yes, sir.

Q. Did the Federal Company compete with them in that territory in the sale of any of those products?

A. I don't think they did so very much in the east.

Q. Practically no trade in the east—they had practically no trade in the east, did they? What competition did the Carnegie Company have in the east with respect to those products?

A. Competition with the Lackawanna Steel Company, with the Cambria Steel Company, with the Pennsylvania Steel Company, with the National Steel Company and Jones & Laughlin Steel Company.

Q. Those were all located in the Pittsburgh District?

A. And east.

Q. And east of there. I suppose the location of the Federal Steel Company was against their competition for the eastern trade. Their location was also against competition for the foreign trade, was it not?

A. Yes, sir.

Q. Prohibitive, was it not?

A. Not altogether. It depends on the condition of the market.

Q. But generally?

A. Yes, sir.

Q. Generally they were out of it?

A. They were not in it with the Carnegie.

Q. Because of their location; and they were not able to get any of the business anywhere east of Pittsburgh?

A. No, not if Carnegie wanted it.

Q. I mean practically.

A. Yes.

Q. Where was it that the Federal competed with the Carnegie, and as to which of these various products that you say the Carnegie made did the Federal Company compete?

A. You mean where?

Q. Both. What were they and—

A. (Interrupting) They competed on rails.

Q. That you told us about; but take the other things, what other of these products?

A. Plates and structural shapes and bars in what is known as the central part of the United States.

Q. That is the territory between Pittsburgh and Chicago?

A. Yes. And south and west of Chicago, and north and west of Chicago.

Q. I suppose that in the territory north and west of Chi-

cago the Federal Company had an advantage over the Carnegie Company?

A. Yes, sir.

Q. The Federal Company was not able to come, or did not come, very far east of the western line of Ohio?

A. No; they very seldom came further than, say, the Ohio-Indiana line.

Q. Now, then, in respect to this situation growing out of the panic, the first of those committee meetings that you attended seems to have been very generally represented by the manufacturers of the different lines of steel products?

A. Yes.

Q. The first of those meetings I believe occurred after the panic of 1907?

A. Yes.

Q. How soon after?

A. Within a comparatively short time.

Q. The situation was a very serious one, was it not?

A. Oh, very.

Q. What were the elements that created that seriousness; why was it so serious?

A. On account of the money panic.

Q. And was the country prepared for it—the jobbers and the dealers?

A. No, sir.

Q. They were taken greatly by surprise, were they not?

A. They were.

Q. They were loaded up, were they not, to a most unusual extent with steel products?

A. Yes; they were. We were very much worried about their credits.

Q. What would a severe or sharp drop in prices mean to them?

A. Ruin to a number of them.

Q. And to the steel manufacturers it would have meant a loss?

A. It would have meant a loss.

Q. Of course, I judge that was owing to the fact that money was owing to them from the dealers?

A. Yes.

Q. Was it the middle men only that were loaded up?

A. No, the manufacturers too, as well as the consumers.

Q. All the way down the line to next door to the consumer?

A. Yes.

Q. What manufacturers did you allude to?

A. Any manufacturer who bought steel and manufactured it for resale.

Q. You did not mean the original steel manufacturers, as we call them?

A. No.

Q. But the manufacturer who used the finished product and made machinery?

A. Yes; the secondary manufacturer.

Q. Yes, secondary production. A good many of those in the country, of course?

A. Bound to be.

Q. I take it from what you say that their attitude at that time was not that of asking a reduction in prices?

A. No, sir; it was not. They wanted us to maintain prices.

Q. They were rather clamorous on the subject, were they not?

A. Yes.

Q. Was that a subject of discussion at your meetings?

A. Yes.

Q. And of anxious consideration?

A. Yes, sir.

Q. And was a general canvass of the situation fully and freely gone into?

A. Yes, sir.

Q. I think you have said that not at that first meeting or at any other, did you make any agreement to maintain any particular price for any time at all?

A. No, sir.

Q. But that before the end of the discussion the Carnegie and Illinois, one or both of them, did announce the price that they were going to exact?

A. Yes, sir.

Q. There was no time fixed, I take it, during which these prices were to prevail?

A. No, sir.

Q. Nor any undertaking not to change it whenever they chose?

A. No, sir.

Q. No promise of that kind was ever made?

A. No, sir.

Q. No declaration as to the length of time they would thus continue it?

A. No, sir.

Q. I understand you that generally the other manufacturers present remained silent, although sometimes they declared their purpose?

A. No, they all participated in the discussions.

Q. But after the Carnegie and Illinois Companies had made a statement as to the price they were going to charge, I understood you to say, perhaps wrongly—

A. (Interrupting). The other makers would say that that was a wise decision and they expected to do the same.

Q. What I understood you to say was that some of them would do that, but a majority of them would remain silent. Is that correct?

A. Yes; I guess you can say that.

Q. That is what I understood you to say. The general effect of this was to steady the prices?

A. Yes, sir. That was the object of the meetings.

Q. I suppose at these meetings there was a discussion intended to ascertain whether the general condition was such as to make an advance or a lessening of price or maintenance of the present price reasonable or not?

A. Yes, sir.

Q. Those meetings continued down for a year or two?

A. Yes; about a year and a half.

Q. I understood you that this stock of the jobbers and dealers and secondary manufacturers was pretty well used up within six or eight months?

A. Yes, sir.

Q. And then they began to seek a reduction in prices?

A. Yes, sir.

Q. And they got it?

A. Yes, sir.

Q. And that was brought about in the way you have told us?

A. Yes, sir.

Q. At no one of these meetings, I understood you, was there any agreement made as to either the raising or lowering or maintenance of prices?

A. No, sir.

Q. But there was a full and frank discussion of the business situation?

A. Yes, sir.

Q. As it had changed from time to time?

A. Yes, sir.

Q. Were there any failures of jobbers during these times? I mean the panicky time and the year following.

A. No; there was no failure of any importance in the iron and steel business—largely due to the action taken.

Q. You have been through panics before, have you not?

A. Yes.

Q. Was there ever a panic as severe as this that was not attended with a great number of failures?

A. Not to my knowledge.

Q. This was the first one that you got through?

A. Yes.

Q. You think it was due very largely to this action?

A. I am very sure it was.

RE-DIRECT EXAMINATION,

By MR. DICKINSON:

Q. You stated that the manufacturers, succeeding the time of the panic of 1907, wanted you to maintain prices?

A. Yes, sir.

Q. Were prices maintained?

A. They were.

Q. How?

A. By the Carnegie and Illinois Steel Companies refus-

ing to sell below a certain level. They were the two large makers. In other words, they set the pace.

Q. Did they or not control the situation?

A. They could not have controlled the situation without the help of their competitors, and their competitors helped them.

Q. You were asked about whether you had any agreement and you said no. What did you mean by agreement, in the sense that you answered that question?

A. I meant a formal undertaking, either written or expressed by word.

Q. What do you mean by a formal undertaking?

A. I mean by a formal undertaking an expression in a formal way.

Q. In what way? I would like you to explain that.

A. Either in writing or by word of mouth.

Q. What kind of an expression in a formal way? Do you mean something of the nature of a contract?

A. I presume you mean by passing a promise?

Q. No, I am not saying what I mean, but I am trying to get at what you mean.

A. What I mean is this: That there was no absolute promise made by anybody.

Q. That is what you meant when you said that there was no agreement?

A. Yes.

Q. I will ask you whether or not you left with the general understanding, each relying upon the other, that the prices announced would be maintained.

A. Yes, sir. Yes, sir.

Q. And what would interrupt the maintenance of that price, according to that understanding that you left with?

A. Usually one competitor would take some business away from another competitor.

Q. As I understand you that would be the occasion of another meeting?

A. Yes, sir.

Q. State whether or not there were any meetings held subsequent to February, 1909.

A. I do not think there were any meetings, or at least I have no recollection of any, until in the summer or fall of 1910.

Q. What is the first one in 1910 that you have any recollection of?

A. If I recollect, a meeting was held in the offices of the Jones & Laughlin Steel Company.

Q. Office of the Jones & Laughlin Steel Company?

A. Yes, in Pittsburgh.

Q. Who was present there?

A. Mr. Guthrie, of the Republic Iron & Steel Company; Mr. Geddes and Mr. Gerry, of Jones & Laughlin; Mr. Robinson, of the Lackawanna Steel Company, and I think Mr. Martin, of the Pennsylvania Steel Company.

Q. Was there anybody there from the Illinois Steel Company?

A. I cannot recollect.

Q. Were you there?

A. I was there.

Q. What company were you representing there?

A. The Carnegie Steel Company.

Q. What took place at that meeting?

A. We were then in the middle of another depression in the business, apparently, and we talked matters over, and nothing much was done.

Q. Had there been a cut in prices preceding that meeting?

A. Yes, sir.

Q. Were there any meetings following that meeting?

A. I do not recollect any.

Q. State whether the meeting you have referred to was followed by any announcement of prices in the public press.

A. I do not think it was.

Q. Was there any announcement of prices at the meeting?

A. No. The meeting was not very successful.

Q. What do you mean by not being very successful?

A. The conditions were so mixed that the best thing to do was to let matters take their course.

By MR. LINDABURY:

Q. You could not even discuss it?

A. No, sir.

By MR. DICKINSON:

Q. Did you discuss the conditions at that meeting?

A. To a certain extent, yes.

Q. Did you exchange information as to the condition of business?

A. Yes, sir.

Q. And as to what you were doing respectively?

A. Yes, sir.

Q. And nothing resulted?

A. Nothing resulted.

Q. That did not bring about any result?

A. I do not think it did, as I recollect it.

By MR. LINDABURY:

Q. I will read from the bill in this case.

“It is not here alleged that merely assembling and mutually exchanging information and declaration of purpose amounts to an agreement or combination in restraint of trade.”

I will mark that so you can read it, and hand it to you (handing witness the paper referred to).

My question—and you may pause to consider it if you choose—is whether or not, at any of these meetings you attended, beginning in the autumn of 1907, anything more was done than is there stated.

A. No, sir.

By MR. DICKINSON:

Q. You said that you assembled?

A. Yes, sir.

Q. You exchanged information?

A. Yes, sir.

Q. And you declared purposes as to prices?

A. Yes, sir.

Q. I understood you to say also, that you left, each relying upon the other that that price would be observed by them,

and that the announcement of that price was made to the trade?

A. Yes, sir.

MR. DICKINSON: That is all.

By MR. LINDABURY:

Q. That was faith and hope, though, rather than promise and contract, was it not?

A. Yes.

By MR. DICKINSON:

Q. Was a good deal of it faith?

A. Mostly hope.

Q. Did you expect to observe your announcement?

A. Yes.

Q. Did you observe it?

A. Yes, sir.

Q. Did others observe it?

A. The larger concerns, the stronger concerns, yes.

Q. And had they observed what they had so announced at previous meetings?

A. Yes, sir.

Q. From time to time?

A. Yes, sir.

Q. Now, I will ask you whether or not the stronger concerns that were represented there can practically make the market in the steel business.

A. You mean the Carnegie and Illinois Companies?

Q. Including, of course, the Illinois and the Carnegie; the Lackawanna, Jones & Laughlin, the Cambria and Pennsylvania Companies.

A. Only when conditions are with them.

Q. What do you mean by conditions being with them?

A. When times are good.

Q. When times are good?

A. Yes.

Q. They can do it then, can they?

A. Yes.

By MR. LINDABURY:

Q. Can any concern, however large, maintain a price above that at which its competitors are selling?

A. No, sir.

By MR. DICKINSON:

Q. I will ask if the Steel Corporation did not, over periods, maintain prices above those that some of its competitors were selling at?

A. Only for very short periods.

Q. But they did do it for short periods?

A. And during that time they surrendered the business.

MR. DICKINSON: That is all.

BERTRAM S. STEPHENSON,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Stephenson, where do you live?

A. I live in Pittsburgh.

Q. What is your age?

A. 32.

Q. In what business are you engaged?

A. Pig iron.

Q. With what company?

A. With M. A. Hanna & Company.

Q. Where is that company located?

A. At Cleveland.

Q. Have you any connection with the Iron Trade Review?

A. Not at present.

Q. Have you ever had any connection with the Iron Trade Review?

A. Yes.

Q. During what period? What years?

A. For about five years previous to February, 1910.

Q. That would be, then, from about February, 1905, on?

A. Yes; from September, 1905.

Q. State what your connection was with that journal.

A. I was associate editor, and for most of the time was stationed in New York, in charge of the New York editorial office.

Q. What was your business as representative of that journal in New York?

A. To secure and put in shape for publication all news matter of the trade in New York and Philadelphia.

MR. DICKINSON: There are some articles that I want to identify by the witness, and introduce in evidence. I will show them to counsel first. (The books referred to were exhibited to counsel.)

By MR. DICKINSON:

Q. Mr. Stephenson, please examine the Iron Trade Review here shown you, December 26, 1907, page 1028, the article entitled "**Making Progress**," and state whether or not you can identify that article and whether you had any connection with the writing of it, and if so, what.

A. I would not be able to identify that absolutely as my writing.

Q. Have you any recollection of it?

A. I have a recollection of handling a vast mass of matter in connection with this entire so-called Gary movement. It is four or five years ago, and as to any particular story, with one or two exceptions, I am rather hazy as to the exact manner in which it was prepared. As a general thing, though, I wrote the stories.

Q. Where does that article purport to be written from?

A. It bears no heading. It naturally would come from New York.

MR. SEVERANCE: The paper is published in Cleveland, is it not?

THE WITNESS: Yes.

MR. DICKINSON: You were located in New York?

MR. SEVERANCE: That article is not headed New York?

THE WITNESS: It bears no heading.

By MR. DICKINSON:

Q. That purports to come from New York?

MR. LINDABURY: No.

MR. DICKINSON: Well, now, Mr. Lindabury, I wish you would let the witness answer.

MR. LINDABURY: That is a matter that anybody can tell as well as he can. You should not ask that. You are asking for the contents of a written paper.

MR. DICKINSON: When I ask the witness a question, I do not think it is proper for counsel to answer it.

MR. SEVERANCE: It is not a proper question.

MR. DICKINSON: That may be. If that is so, the proper way is to except to it.

MR. SEVERANCE: All right. We object to the question.

MR. DICKINSON: Very well. Enter the objection.

MR. LINDABURY: We have nobody here to rule. We have a right to appeal to your honor. You know just as well as I do that you have no right to ask that question.

MR. DICKINSON: I do not. I think I have a right to introduce that article, and I am going to introduce a number of articles. Very likely you will object to them. I think I have a right to put them in, as a part of the current history of the times, by a journal whose business it was to record the history of that particular trade. I am fully aware of the fact that they will be objected to, but that is a matter for the Court to decide.

MR. SEVERANCE: But you have not before you this particular article. If you had, you would not have asked the particular question. Look at the article and I am sure you will withdraw the question.

By MR. DICKINSON:

Q. State whether or not, at or about that time, you obtained from Judge Gary, or from his office, any announcements in substantial accord with what is in this article attributed to Judge Gary.

MR. LINDABURY: I object to the question as irrelevant, because it asks for what may have come from Judge Gary's office.

By MR. DICKINSON:

Q. Answer the question.

(At the request of the witness the stenographer repeated the question.)

A. That means that I must remember specifically having obtained such information, if I answer in the affirmative?

Q. I am asking about your memory.

A. I do not remember it absolutely.

Q. Did you go to Judge Gary's office about that time?

A. Yes, sir; frequently.

Q. Did you go to him on a date preceding that article, or a date shortly preceding that?

A. I would be unable to say that I went to his office immediately before the publication of this.

If you will permit me to make an explanation of the way in which that matter is secured and handled—

Q. I am perfectly willing for you to do it. I only want to get at what you know.

A. It may simplify things—

MR. LINDABURY: I object to that. All this is under objection, and we had better be confined to questions to which we can object.

By MR. DICKINSON:

Q. If you know anything of your own knowledge about that article and the information in it and how it was obtained, state what you know.

MR. LINDABURY: Objected to as incompetent, irrelevant and not the way to prove it.

By MR. DICKINSON:

Q. Answer the question.

A. I have a hazy recollection of having a sheet of paper, a flimsy sheet of paper, carrying this list of names; either this list or a larger list—a complete large list, a little later.

Whether I got that from Judge Gary's office or from one who was more or less identified with this movement and present at the dinners, or whether I got it by comparing the statements in the daily papers, I am unable to say absolutely.

Q. Do you recognize any of the names that appear in those committees as the names which you obtained at or about that time?

A. The names are all familiar to me.

Q. Are they familiar to you as being members of those committees according to the information that you obtained about that time?

A. I assumed that they were members of these committees.

Q. You say you assumed it?

A. Yes.

Q. Did you act on assumption, not information, when you sent articles to the Iron Trade Review?

A. We followed the course that would produce results with the least effort. That means following the course which I outlined to you a moment ago. I might have gotten this in any one of three ways.

Q. What do you mean by "results"? Do you mean by which you would get authentic information, or by which you would simply write an article with the least effort?

A. I mean that I was in New York to report the iron and steel news for the Iron Trade Review; but I was down there——

Q. Down where?

A. At New York, to secure news that was accurate; that it did not matter at all to the editor of the Iron Trade Review or the president of the company how I got it, so long as it was accurate, and no confidences were violated.

Q. You mean by "secure results," then, to secure accurate information?

A. Yes.

Q. And not merely to get up an article?

A. No, sir.

Q. Did you, so far as you could, secure accurate information?

A. Yes, sir.

Q. Did you send any communications giving information that you did not at the time believe to be accurate?

A. No, sir.

Q. Did you, from time to time, go to the office of Judge Gary to get information in regard to what had been done in the iron trade?

A. I was at Judge Gary's office about as frequently as I was at the offices of the other large steel interests.

Q. How frequently would that be?

A. At least once a week.

Q. How often would you write these articles, or give this information?

A. Whenever there was any occasion for it.

Q. That is, whenever there was anything of sufficient import?

A. And I knew it.

Q. And you knew it to communicate it?

A. Yes, sir.

Q. State whether or not, at that time, you received information from Judge Gary's office as to who were members of the several committees named in the article before you.

A. I am unable to do that, absolutely.

Q. Did you go to his office preceding the time of the announcement of these committees by the Iron Trade Review?

A. Yes. I was calling there regularly.

Q. Did you send any information to the Iron Trade Review at or about that time, as to who constituted the personnel of those committees?

A. I tell you that I have a hazy recollection——

Q. I am not asking you about that article now, but I am asking you about that time whether you sent to the Trade Review a statement as to the personnel of those committees which are designated there.

A. I am telling you that at that time I have a hazy recollection of having in my possession a list of these names, and that I used that either in the preparation of this article or one following in a couple of weeks.

Q. What article is that?

A. February 13, 1908. There is a supplementary list there.

Q. Turn to page 348 and read the title of the article.

A. Page 348, what date?

Q. February 13, 1908.

A. You are asking me about this supplementary list (indicating). There is one just previous to this (indicating), which is the other one. This is the larger list (indicating). This is the revised list here (indicating).

MR. COLTON: This is the revised list. Look over this. See the heading of that article (indicating).

By MR. DICKINSON:

Q. Read the title of that article.

A. Revised list of New York Conference Committeemen.

Q. State whether or not you wrote that article.

A. I am unable to state absolutely.

Q. What is your recollection of it?

A. My recollection is that simultaneously with the announcement of these committees, or at the time these committees were formed, that material was printed in the New York papers.

MR. LINDABURY: In the daily papers, you mean?

THE WITNESS: In the daily papers. It was in general circulation in a news way, and I may have gotten it from them and written it. Ordinarily I would have been held accountable for both these articles.

By MR. DICKINSON:

Q. How is that?

A. Ordinarily I would have been held accountable for securing both of these articles.

Q. Those two articles that appear there?

A. Occasionally, however, Mr. Penton, the managing editor and president of the company that publishes this journal, was in New York, and he had a pernicious habit of scaring up considerable news that I did not get, and it may have been furnished by him.

Q. I understood you to say, however, that you did recollect

getting names that were the same as those that appear in one of those articles?

A. Yes. I said I had a list.

Q. Where did you get that?

A. I cannot tell you. I have a hazy recollection, again, that one of these was handed me by Mr. Penton.

Q. Who is Mr. Penton?

A. President of the Penton Publishing Company, publishing the Iron Trade Review in Cleveland.

Q. What are his initials?

A. The name is John A. Penton.

Q. Have you any recollection of going to the office of the United States Steel Corporation and having this list checked up?

A. Occasionally I would do that. Judge Gary's secretary, Mr. Fleming, who is now dead, was a good personal friend of mine, and frequently when I was rushed I would telephone over to him, something like this: "Fleming, you saw the Judge's statement in the morning paper. Is that correct?" I would tell him which paper. Judge Gary was always careful about being correctly quoted, and checked up any interviews rather carefully, and on Mr. Fleming's say-so I assumed that my information was correct, when I would get it from the morning papers.

Q. State whether or not you got the names appearing in those several committees checked up by Mr. Fleming.

A. I would be unable to testify absolutely that I did.

Q. I am not asking you to say absolutely. I am asking you to testify according to the best of your knowledge, information and belief.

A. Judge Dickinson, if I do not remember that I did—

Q. I am not asking you to remember, or urging you to remember it; I am urging you to answer the question according to your best knowledge, information and belief.

MR. LINDABURY: That would not be proper, and we object to his answering the question.

MR. DICKINSON: I am not asking him to recollect the par-

ticular thing, I am not urging him to remember any particular thing.

(The last few questions and answers were read aloud by the stenographer, as above recorded.)

By MR. DICKINSON:

Q. I am not suggesting to you to remember any particular thing, nor anything about it one way or the other; but I am asking you to answer the questions I ask you to the best of your knowledge, information and belief.

MR. LINDABURY: I object to that, because he is asked to tell, in the first place, if he has any knowledge about it, and if he has not any knowledge, to tell if he has any information, and if he has neither knowledge nor information, then, he is asked to testify according to his belief. There is no rule of evidence that admits any such testimony.

MR. DICKINSON: (Addressing the Examiner). I will ask what oath was administered to this witness?

THE EXAMINER: That he should testify to the truth, the whole truth, and nothing but the truth.

MR. LINDABURY: Yes, and I believe he was not sworn to testify what he believed.

By MR. DICKINSON:

Q. Testify, so far as you can, to the best of your recollection, whether or not you got that list checked up by Mr. Gary's office.

MR. LINDABURY: I object, because the witness has already said that he has no recollection.

A. Which list do you refer to?

By MR. DICKINSON:

Q. Either of them.

A. I cannot say that I did have it checked up. I may have, but I cannot say that I did absolutely.

Q. Have you any recollection about it one way or the other?

A. No. You will have to remember that this was five years

ago and I was handling pages of material every week and almost every day, and I cannot remember those things.

MR. LINDABURY: There was a committee appointed, and we can find out whether the names are correct or not.

MR. SEVERANCE: You have had men on the stand who have testified that they were members of certain committees.

MR. DICKINSON: And you have objected all along. We had a printed list of these, and you objected to that.

MR. SEVERANCE: We cannot consent that this gentleman shall give his views on the situation and have them go in as evidence.

MR. LINDABURY: Of course I do not know whether this is accurate or not, but we can give you an accurate list, if that is what you want.

MR. BOLLING: We can undertake to furnish them with a correct list.

MR. LINDABURY: Mr. Halstead, will you make a memorandum to have that list compared, or get a correct list?

MR. HALSTEAD: Yes, sir.

By MR. DICKINSON:

Q. Look at this article on page 284 of the Iron Trade Review, of February 6, 1908, entitled "Meeting of Manufacturers," and state whether or not you wrote that article.

A. (After examination). Yes, sir; I wrote that.

Q. Where were you when you wrote it?

A. At New York.

Q. Where did you acquire the information from which you wrote it?

A. Part of the information came from Mr. Penton, who was at this dinner.

Q. And is that the same Mr. Penton you alluded to a while ago?

A. Yes; the same one.

Q. What is his name?

A. John A. Penton. To the best of my recollection the part of it which is marked "A brief statement given out by Judge Gary" is taken from the morning papers. The list of names I got somewhere, and I don't remember where—around

the corporation, I presume, because they usually had charge of the seating at the dinners, so that the harmonious manufacturers would be together.

MR. DICKINSON: We offer that article in evidence.

MR. LINDABURY: Objected to as irrelevant and incompetent and because it has not been shown that it is anything for which the Steel Corporation or any other defendant is in any way responsible.

MR. SEVERANCE: And the witness has stated that it is purely hearsay.

MR. DICKINSON: That will be followed by taking the deposition of Mr. Penton.

This article begins on page 284 of the Iron Trade Review of February 6, 1908, Volume XLII, and ends on page 286, with the words "President American Bridge Company, Pittsburgh."

(The article so identified was offered in evidence and marked "Government's Exhibit No. 156, October 29, 1912," and a copy thereof will be found in the book of exhibits.)

MR. DICKINSON: It is agreed by counsel that the original may be returned to the owner after a copy has been made for the record.

By MR. DICKINSON:

Q. Mr. Stephenson, I show you an article of the Iron Trade Review, June 11, 1908, at page 1067, entitled "New Schedule," the same being found in Volume XLII of the Journal referred to. It begins with the words "New schedule," and ends with the words "which it is desirous to avoid."

State whether or not you wrote that article.

A. Let me refresh my memory.

MR. SEVERANCE: How is the witness to refresh his memory—by reading something else? I object to that.

A. I telegraphed that to Cleveland from New York.

MR. DICKINSON: We offer this in evidence.

(The article so identified was offered in evidence and marked "Government Exhibit No. 157, October 29, 1912," and a copy thereof will be found in the book of exhibits.)

MR. SEVERANCE: Objected to as irrelevant and immaterial, and because no foundation has been laid for the testimony.

MR. DICKINSON: I suppose the same agreement is made about the original being returned?

MR. LINDABURY: Yes.

MR. SEVERANCE: We object on the ground that it is not in any way shown to emanate from the Steel Corporation, and has not been brought home to it or any of the other defendants.

By MR. DICKINSON:

Q. Where did you get the information upon which you based that?

A. I got it from the morning papers, according to my best recollection. In explanation of that, the statement says that it was given out at the close of a meeting in the evening. I lived at Summit, twenty-one miles out, and was very rarely in town in the evening. Therefore matters of that sort I generally got from the morning papers, and if there was any doubt about anything I generally telephoned to Mr. Fleming.

Q. Mr. Fleming, of Mr. Gary's office?

A. Yes, sir; Mr. Gary's secretary.

Q. Was it a part of your business there to quote the prices of the trade?

A. On certain commodities, yes.

Q. On commodities like billets?

A. The commodities on which I quoted prices are covered in the regular Philadelphia and New York markets, and you can tell from them which. Billets were not regularly quoted.

Q. How about sheet bars?

A. Those were usually quoted from Pittsburgh only.

Q. How about plates?

A. Plates were quoted from Philadelphia and also from New York.

Q. How about structural iron?

A. We quoted it from Philadelphia and New York.

Q. Do these show the quotations at Pittsburgh?

A. I think so. They are all marked, "Pittsburgh base."

MR. SEVERANCE: I would add to the objection that it now positively appears by the statement of the witness that the article did not emanate from any defendant, that it is purely hearsay and taken from some newspaper publication.

By MR. DICKINSON:

Q. I will ask you whether or not that was an announcement of the trade prices on those articles.

MR. SEVERANCE: I object to that. The article shows for itself what it was.

THE WITNESS: It was so understood.

By MR. DICKINSON:

Q. Was it the custom of this Trade Review to announce prices?

A. Yes, sir.

Q. Were the announcements that appeared in this Trade Review generally accepted as authentic by the trade?

A. As much so, I think, as any quotations that are available.

Q. What was the character of this Trade Review in the trade, for authenticity and reliability; good or bad?

A. It had a very good reputation.

MR. LINDABURY: I never heard anybody try to prove a man's reputation by the man himself, before.

MR. DICKINSON: He is not connected with the journal now.

By MR. DICKINSON:

Q. I will call your attention to page 1068, June 11, 1908, an announcement entitled "New Prices," just inside the line.

A. In the box there?

Q. Yes. You identify that as appearing in the Iron Trade Review?

A. Yes.

MR. DICKINSON: We offer that in evidence.

MR. SEVERANCE: I object, as irrelevant and immaterial. It shows on its face that it does not come from any one of the defendants; that it is a mere statement of alleged facts by the editor of a paper. I further object that he has no right to characterize any supposed action of any of these defendants, either as attempted in that article or otherwise.

(The article referred to was thereupon marked Government Exhibit No. 158, October 29, 1912, and a copy thereof will be found in the volume of Exhibits.)

MR. DICKINSON: It is understood that all of these books may be returned?

MR. SEVERANCE: Yes.

MR. DICKINSON: You may cross examine, gentlemen.

MR. SEVERANCE: No questions.

(The witness was thereupon excused.)

(Whereupon, an adjournment was taken until to-morrow, October 30, 1912, at 10:30 o'clock a. m.)

THIRTY-FIRST DAY.

Room 309, Federal Building,
Pittsburgh, Pennsylvania,

October 30, 1912.

The hearing was resumed at 10:30 o'clock a. m., before
Special Examiner Henry P. Brown.

Present on behalf of the United States, Mr. Dickinson, Mr.
Colton and Mr. Corneau.

Present on behalf of the defendants, Mr. Lindabury, Mr.
Severance, Mr. Bolling and Mr. Reed.

D. T. McCABE,

was called as a witness on behalf of the United States, and
having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live, Mr. McCabe?

A. Pittsburgh.

Q. What is your age?

A. I am over 50.

Q. And under 60?

A. In that neighborhood.

Q. In what business are you engaged?

A. I am the Fourth Vice-President of the Pennsylvania
Company.

MR. LINDABURY: Of the Pennsylvania Railroad Company?

THE WITNESS: No, sir; of the Pennsylvania Company.

By MR. DICKINSON:

Q. How long have you held that position?

A. Since January, 1907.

Q. In what department of work are you specially engaged?

A. The traffic department.

Q. You spoke of the Pennsylvania Company. What is the difference between that and the Pennsylvania Railroad Company?

A. The Pennsylvania Railroad Company is the Pennsylvania Railroad Company.

Q. Is that an operating company?

A. Yes; that is an operating company.

Q. Is the Pennsylvania Company an operating company?

A. The Pennsylvania Company is a holding company and an operating company also.

Q. In your traffic relations, have you anything to do with the Pennsylvania Railroad Company?

A. Only in the way of conferences, as I have with other roads.

Q. Where does the Pennsylvania Company operate?

A. West of Pittsburgh and Erie.

Q. And the Pennsylvania Railroad Company?

A. East of Pittsburgh and Erie.

Q. I believe you speak of your Lines West of Pittsburgh and Lines East?

A. The Pennsylvania Lines West of Pittsburgh is the way we designate our system.

Q. State whether or not there is any such association known as the Central Freight Association.

A. There is; yes, sir.

Q. Is there an association known as the Trunk Line Association?

A. I believe so. Our lines are not members of it.

Q. They are not members of that?

A. No, sir.

Q. How about the Central Freight Association?

A. We are members of the Central Freight Association.

Q. What territory does the Central Freight Association cover?

A. West of the trunk lines; and there is a line drawn—I cannot describe it except in a general way—it is west of Pitts-

burgh and Erie, west of Bellaire, south of a line drawn through the Lakes somewhere, over to the Illinois River, down to the Mississippi River, to the Ohio, back up to the point of beginning, say in the neighborhood of Bellaire. That is not quite correct, but it is in a general way.

Q. How often does the Central Freight Association meet?

A. I think bi-monthly.

Q. Do you or not represent the Pennsylvania Company at those meetings?

A. I do not; no, sir.

Q. Who does?

A. Our freight traffic manager.

Q. What is his name?

A. William Hodgdon.

Q. Is he in Pittsburgh?

A. Yes, sir. Also our general freight agents.

Q. More than one?

A. Yes.

Q. Give names and initials, please.

A. Mr. John J. Koch, of the Pennsylvania Company; M. S. Connelly, general freight agent of the Pittsburgh, Cincinnati, Chicago & St. Louis Railway.

Q. State whether or not that association has anything to do with the question of rates on ore and coke coming into Pittsburgh and into the territory known as the Pittsburgh territory, and the Valley territory of Ohio.

A. I do not think they deal with the question at all.

Q. Is there any association that you know of that does deal with the question in any way of rates on ore and coke within that territory?

A. No, sir; there is none.

Q. Do you know of no association or no gatherings of representatives of any of the railroads within that territory that consider in any way at meetings the question of rates on ore from the Lake ports to Pittsburgh and the Ohio Valley, and coke into Pittsburgh and to the Ohio Valley?

A. It necessarily follows that there are gatherings of that kind, when the occasion for it arises.

Q. Is there any designation attached to those gather-

ings, whether you call it an association or otherwise? Are there any names characterizing such associations?

A. No, sir. If you will permit me, I may say this, as I do not want to be otherwise than frank about it: There is an association known as the Western Pennsylvania and Eastern Ohio Railway Traffic Association. It is a great big name, but the association does not amount to much. I happen to have fallen into the chairmanship of that association, when I was made a vice-president, merely because they wanted some one who would arrange for meetings when meetings were required; and I have at times, when meetings were necessary, sent out an invitation to all of the roads in the Pittsburgh district, the Ohio district, the West Virginia district, for a conference to discuss matters which might properly come before them. That association, however, was simply for the purpose of enabling the parties to get together, having some one who would ask for conferences when it was desired.

Q. When did that association last meet?

A. The association has not met, as an association, that I can recall, in many years.

Q. How many times did you preside over meetings of that association?

A. Over meetings of the association itself, I do not believe I ever presided.

Q. How many times did you preside or act as chairman over any meetings of representatives of any railroads, where the question of the rates on ore and coke was taken up and discussed?

A. I think I may have presided—I do not recall—but several times.

Q. When did you last preside over such a meeting?

A. I really cannot recall. My recollection is that when the ore rates were readjusted, the meeting was not a meeting formally called, but just an informal gathering at which the matter was talked over.

Q. When was that?

A. That, I think, was in 1909.

Q. Where did that take place?

A. My recollection is that it was at Cleveland.

Q. Who were present?

A. That I cannot recall.

Q. Were you there?

A. I was there; yes, sir.

Q. Can you recall the names of any persons who were present?

A. I think the representatives of the Baltimore & Ohio, the Erie, the New York Central Lines, and myself. They happened to be all. That is to the best of my recollection. I do not recall distinctly.

Q. How did that meeting get together, at whose instance, at whose notification?

A. That I do not recall.

Q. Did you preside over that meeting?

A. No, sir.

Q. Who did?

A. I do not think anybody did.

Q. Do you know who suggested the meeting, how they happened to get together?

A. I do not recall who it was that suggested it. The desirability of readjusting the ore rates had been talked about, but I do not recall who suggested the meeting.

Q. You did not happen to get together, did you?

A. Oh, no, sir.

Q. You met by consent, did you?

A. We met by common consent.

Q. And appointment?

A. And appointment.

Q. And you do not recall—

A. (Interrupting) I do not recall whether I, at the request of some of the others, sent that out, or whether somebody else sent it out; but there was a request for a meeting.

Q. Was there, at that meeting, any consideration of an application of the Youngstown furnaces for a reduction in ore rates?

A. No, sir.

Q. Were you in any meeting at any time, at any place, where a consideration was had of an application of the Youngstown furnaces for a reduction of ore rates.

A. There was such a meeting in New York, but I cannot recall the date. It was within the last eighteen months, I believe.

Q. How did that meeting come about?

A. It came about through a communication from Mr. Campbell, I think.

Q. What Mr. Campbell?

A. James A. Campbell, president of the Youngstown Sheet & Tube Company.

MR. LINDABURY: Were you present?

MR. DICKINSON: I will ask him that.

By MR. DICKINSON:

Q. Were you present at that meeting?

A. I was present; yes, sir.

Q. Who was there besides yourself?

A. I think the representatives of all the lines interested in the carriage of ore, coke and coal in the Valleys.

Q. State by name what companies were represented in that meeting.

A. To the best of my recollection, the companies represented at that meeting were the Baltimore & Ohio, the Erie, the New York Central, the Pennsylvania Company. My recollection is that those were all the lines.

Q. Who represented at that meeting the Baltimore & Ohio?

A. I believe it was Mr. Randolph.

Q. Give his initials, please.

A. George F. Randolph. I am trusting to my recollection. If I had known that I should be examined along these lines I would have been in a better position to state more definitely.

Q. Who represented the Erie?

A. It was Mr. Cooke, general traffic manager, or Mr. Brownell, their vice-president, or both. I do not remember specifically.

Q. Who represented the New York Central?

A. I believe Mr. Daly.

Q. And then there were the Pennsylvania Companies, did you say, or the Pennsylvania Company?

A. The Pennsylvania Company.

Q. You represented that?

A. I did.

Q. Can you name any other persons who were present during that meeting? ..

A. I said that I represented the Pennsylvania Company. Joseph Wood was representing the Pennsylvania Company, and he was the party who had been addressed by Mr. Campbell.

Q. And you were there also?

A. I was there also.

Q. What other person or persons were there during that meeting?

A. There were several there, several other parties, but I do not just recall who they were.

Q. Name those that you can recall.

A. I do not know.

Q. Were there any records kept of any of the meetings which you attended, where the question of ore and coke rates was considered?

A. Do you mean following this——

Q. At any meeting?

A. I think there were records kept, minutes, made by the secretary at the meetings, where the coal rates were considered.

Q. Who was that secretary?

A. At that time I think it was Mr. C. E. Childers.

Q. Where is he from?

A. Pittsburgh.

Q. Were there any records kept of any other meetings attended by you where the question of the rates on ore and coal was considered?

A. I think the records of the coal meetings were kept. I do not believe there was any record kept of ore, where the ore matter was discussed, because it was a general discussion, and there was really no record to keep. That is my general recollection.

Q. Who kept the records in respect to the coal?

A. Mr. Childers.

Q. The same Mr. Childers that you have spoken of?

A. Yes, sir.

Q. Who is Mr. Childers; what employment is he in?

A. At that time he was secretary of this Western Pennsylvania and Eastern Ohio Railway Traffic Association.

Q. At what time was that?

A. 1909.

Q. When did that association begin?

A. Beyond my recollection, Judge.

Q. Is it in existence now?

A. Well, it has never formally gone out of existence, but it has never had a meeting. and it is practically obsolete.

Q. When was its last meeting that you know of?

A. As a meeting of the association itself I do not recollect ever having attended a meeting, that is, where the association itself——

Q. (Interposing) When was the last meeting of those representing the ore-carrying interests that you attended; when was that?

A. I think there was no meeting of the association at all, but the ore-carrying roads, which were those I mentioned a while ago, had some conferences on the subject, but no regular meeting of the association.

Q. Did that association have a recognized list of membership?

A. Yes.

Q. Did it have any articles of agreement?

A. No, sir; no constitution or by-laws or articles of agreement, or anything of the kind.

Q. I believe you stated you did not know when it was formed?

A. I stated that I did not, yes.

Q. That was my recollection.

A. It antedates my connection with it.

Q. State whether or not at any meeting, either of the association or of those railroads interested in the carriage of ore, at which you were present, there was ever present any representative of the Bessemer & Lake Erie Railroad Company.

A. I think that there was a representative present at that conference with Mr. Campbell's committee.

Q. Who was he?

A. Mr. Baird, the general freight agent.

Q. What are his initials?

A. F. C. Baird.

Q. Was Mr. Baird at any previous meetings at which you were present?

A. I do not recall them.

Q. Do you recall that he was not?

A. Yes. At the meeting of the roads interested in the carriage of coal, in the spring of 1909, I do not think there was any representative of the Bessemer & Lake Erie Road present. That is my recollection.

Q. That was a coal meeting?

A. Yes.

Q. How about ore meetings?

A. I never saw any representative present at any conference with regard to ore, to the best of my recollection.

Q. The conference you say in New York, though, was in regard to ore, was it not?

A. That was on complaint by Mr. Campbell.

Q. But it was in respect of ore?

A. Yes; complaining of the ore rates.

Q. And Mr. Baird was at that meeting?

A. He was there. Mr. Baird, as I recall it, was in New York on some other business, and just happened into this conference.

Q. And he was in the conference?

A. He was in the room.

Q. When this association was an actual association, and before it got to the stage of these informal meetings of which you speak, who were the members of that association?

A. The association, so far as the name goes and the membership is concerned, is to-day just what it has been.

Q. But I understood you to say that there had been no meeting of the association, as such, recently?

A. No.

Q. When there were meetings, as an association, state what railroad companies were members of it.

A. (Referring to paper). The Baltimore & Ohio—

Q. What are you reading from?

A. A letterhead.

Q. That refreshes your memory, does it?

A. Yes, sir. (Continuing.) The Erie Railroad, the Lake Shore & Michigan Southern, the Pennsylvania Railroad, the Pittsburgh, Cincinnati, Chicago & St. Louis Railway, the Pennsylvania Company, the Pittsburgh & Lake Erie Railroad, and the Wheeling & Lake Erie Railroad.

Q. Let me see that paper please.

(The witness handed paper to counsel.)

This memorandum from which you were reading is a letterhead, is it?

A. That is a letterhead, yes.

Q. When was this printed, if you know? Is it an old or a recent letterhead?

A. It is an old one; because Mr. Childers is no longer the secretary of the association. It has no secretary.

MR. LINDABURY: And he is named as secretary on the letterhead?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. And you are named as chairman?

A. Yes, sir.

Q. Is there any chairman now?

A. I still have the distinguished honor of being chairman, as far as it goes.

Q. It has a chairman, but no secretary?

A. No secretary.

Q. Has it an office now?

A. It has no office, no.

Q. I see it stated here that the office is 614 Lewis Building. That appears on the letterhead.

A. That was Mr. Childers' office. That was the office of the secretary. It has no office now.

Q. When did you cease to use these letterheads? At what period did Mr. Childers cease to be secretary?

A. I think Mr. Childers has been out—that is, we discon-

tinued the secretaryship—within the past eighteen months or two years.

Q. Where are the papers, if there are any, of this association? In whose possession are they?

A. I presume they are in the office of the secretary; but whether he has them now or not, I don't know.

Q. Are any of them in your possession?

A. Only such as I handled myself.

Q. What character of papers are those that you handled yourself and that are in your possession?

A. Communications that I would send out; calls for meetings. I usually used the letterhead of the association.

Q. When did you last call any meeting, as chairman?

A. I cannot recall, Judge. If I were to call a meeting to-day, I would use the letterhead of the association.

Q. Have you anything else except letterheads, upon which you would call meetings? Have you any of the records of that association, or any other papers?

A. No, sir.

Q. Then, really, you have no records?

A. Nothing beyond that.

Q. Nothing beyond letterheads?

A. No.

Q. I do not know whether I asked you or not, but I will ask you again: When did you send out the last communication on such a letterhead?

A. I really cannot recall.

Q. Have you sent one within a year?

A. No; I think not within a year. I don't remember just the occasion that would have necessitated it. My recollection is that it was a meeting to consider the coal rates.

CROSS EXAMINATION,

By MR. SEVERANCE:

Q. You stated that Mr. Baird happened to be in New York and came into that meeting, at which Mr. Campbell's committee made its complaint?

A. Yes, sir.

Q. Mr. Baird took no part in determining what should be done upon that complaint, did he?

A. My recollection is that Mr. Baird simply sat there and did not open his mouth or say a word. He did not participate, in other words.

Q. And the decision of yourself and the other gentlemen as to what action your respective roads would take on the complaint was not made until later, was it, and communicated to Mr. Campbell about a month later?

A. That is my recollection.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all.

JOSEPH G. BUTLER, JR.,

was called as a witness on behalf of the United States, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live?

A. Youngstown, Ohio.

Q. I suppose you are over 50, and reasonably young, at that?

A. I have reached the Scriptural limit.

Q. Which one—three score and ten? You know there are two.

A. I was 71 on my last birthday.

Q. Are you engaged in any business, Mr. Butler?

A. Yes, sir.

Q. In what business?

A. The iron and steel business.

Q. Manufacturing iron and steel?

A. I am vice-president of the Brier Hill Steel Company. I am a director in the Youngstown Sheet & Tube Company.

Q. How long have you been vice-president of the Brier Hill Steel Company?

A. Since it was formed.

Q. When was that?

A. Last February.

Q. How long have you been a director in the Youngstown Sheet & Tube Company?

A. Ten years.

Q. Are you interested at all in the making of pig iron?

A. Yes, sir. The Brier Hill Steel Company are makers of pig iron.

Q. How long have you been interested in the production of pig iron, Mr. Butler?

A. I went into business on my own account in 1866.

Q. Since that have you constantly been in that business?

A. Yes, sir. I was then manager and part owner of the Girard Iron Company, and I have made one change since then, when the Brier Hill Iron & Coal Company and the Youngstown Steel Company were merged into the Brier Hill Steel Company.

Q. Were you ever connected with any pig iron association, or associations, and, if so, what associations; what were their names; and give the periods of your connection with them, and the capacity in which you were connected with such association or associations.

A. The only real pig iron association that I have been connected with is what is called the Bessemer Pig Iron Association.

Q. When was that association formed?

A. As near as I can remember, about 17 years ago.

Q. Were you an officer of that association?

A. Yes, sir.

Q. What position did you first hold with it?

A. I think I was the secretary at first.

Q. How long did you continue as secretary?

A. I do not remember. I think it was a year or two.

Q. Then what position did you hold with it?

A. I was president.

Q. What position?

A. President—chairman.

Q. How long did you hold that position?

A. Up to the time it went out of business.

Q. When did it go out of business?

A. About two years ago.

Q. Who were the members of that association?

A. The Brier Hill Iron & Coal Company, the Youngstown Steel Company, the Youngstown Sheet & Tube Company, Pickands, Mather & Company, M. A. Hanna & Company, the Struthers Furnace Company. I cannot recollect, but there were two or three others—practically all of the independent merchant furnaces in the two valleys, the Mahoning and Shenango Valleys. Andrews & Hitchcock Iron Company were members.

Q. Were all the people you have named members of that association prior to April, 1901?

A. Possibly not all of them.

Q. If there were any that were not, name those who subsequently became members.

A. I cannot tell that from recollection.

Q. State as near as you can those who were members prior to the formation of the United States Steel Corporation.

A. Practically all that I have named. Possibly one or two others that I have not named.

Q. In 1900, or about that time, or the early part of 1901, what was the combined output of the members of that association?

A. I should think about a million tons a year.

Q. What were your duties as secretary of that association?

A. My principal duty was looking after statistics, keeping in touch with the furnaces, selling pig iron when anybody wanted to buy it.

Q. You said looking after statistics. What character of statistics?

A. Well, we kept track of whether the furnaces were in blast or out of blast, and the stocks of pig iron on hand, and to some extent the stocks of ore.

Q. How were those statistics gathered?

A. I sent out a blank and had them filled out.

Q. The secretary would send out a blank to the various members?

A. Yes, sir, and I send them out yet. I send them out now on my own account.

Q. But not as a member of the association?

A. No.

Q. But during the time you were secretary, of which you have spoken, blanks were sent out, and those blanks showed what?

A. They showed whether the furnace was in or out of blast, and showed whether they had pig iron on hand, and the quality.

Q. What were your duties, Mr. Butler, when you became president of the association?

A. Practically the same.

Q. And were statistics of the same character gathered, and in the same way that you have stated?

A. Yes, sir.

Q. Did that association have anything to do with the sale of pig iron?

A. Yes, it had.

Q. Explain fully what it did in respect of selling pig iron.

A. If we got an inquiry for pig iron I would either call the members together, or communicate with them by telephone or letter and say that I had an opportunity of making a sale and ask them if they wanted to participate in it, and if they were satisfied with the price, and so on, and usually we would get together and talk it over.

Q. Did the association derive any profit from this sale?

A. None whatever.

Q. You say you would get together and talk it over?

A. Yes, sir.

Q. Who would get together and talk it over?

A. A representative from each furnace, usually.

Q. Would get together and talk it over?

A. Yes, sir.

Q. Were the sales made by the association, or directly by the various members, if they participated?

A. They were made by the different members. The con-

tracts were made out by each member. The association never made any contracts at all. It was a transaction between each furnace company and the purchaser.

Q. Was there ever any apportionment of these sales among the various members?

A. In a way there was, but no one took any more than he cared for. If the price was not satisfactory he would not take any. Very frequently some of the people did not want any of the orders.

Q. But suppose the various members all wanted to participate; was there then an apportionment, and, if so, on what was it based?

A. To some extent on the capacity of the furnaces.

Q. I will ask you whether or not sales were made from time to time in which the various members participated, and participated upon a basis of representation dependent upon the relative capacity.

A. No, I don't think so.

Q. I understood you to say that sales were based on capacity?

A. I explained that. No furnace company took an order or any part of an order—for instance, if I would sell a hundred thousand tons, no furnace took any part of it unless the price was satisfactory.

Q. I understand; but suppose they all wanted to participate in a particular sale to which you, as secretary or president of the association called their attention, was it apportioned among them; and, if so, on what basis?

MR. LINDABURY: I object. It does not appear that any such situation ever arose. I object to an inquiry of this character. I think the witness ought to be asked to explain the transaction or the method of doing the business.

By MR. DICKINSON:

Q. Go ahead and answer the question.

A. We had a record. No two furnaces hardly ever make the same quantity, and the order, if the furnaces wanted it, was apportioned in accordance with their capacity.

Q. State whether or not before that association ever arose the question of the members of the association shutting down their furnaces and curtailing their product.

A. Before the association was formed?

Q. No, not before it was formed, but whether that ever came before the Association as an association.

A. I think possibly that may have been discussed, although I have no clear recollection of it.

Q. I will ask you whether or not the members of that association from time to time by agreement curtailed their product by shutting down over certain periods a portion of their furnace capacity.

A. No, sir; not by any agreement.

Q. Did they or not do that thing after a consultation on the subject?

A. I think each furnace company did what they thought it was to their interest to do.

Q. I will ask you whether or not there were any meetings of members of that association at which was discussed the question of curtailing the product of pig iron in that territory.

A. I think it was one of the subjects that was discussed.

Q. State whether or not, following those meetings, there was a curtailment by members of that association, shutting down a portion of their furnace capacity.

A. I could not answer that from recollection. It is a good while ago.

Q. Can you recall or not whether at any time during your connection with that association as secretary or president, following such a conference, in regard to the amount of product on the market, there was a cutting down by the members of that association of their furnace capacity?

A. As I have already said, each member did what he thought was for the best interests of his particular concern.

Q. Do you know, Mr. Butler, whether any of those members, following such a meeting, did, as a matter of fact, shut down a portion of their furnace capacity and reduce the product?

A. I think it is possible that some of them did. They may have had other reasons in mind. The market may have been dull, and they may have wanted to make repairs, and it was a good time to make them, when there was a surplus on hand.

Q. You say you think it is possible?

A. Yes.

Q. I am asking what you know—whether you know or not that such was done.

A. No; I would not say positively that it was.

Q. Would you say positively that it was not?

A. No; I would not.

Q. Where are the records of that association?

A. There are no records.

Q. Were there any records?

A. There were records. We turned them in to our attorney after we had a meeting. There were some memorandums made. There are none now.

Q. At what periods did you turn them in to your attorneys?

A. From time to time.

Q. When did you last turn in any?

A. When we concluded to quit the business.

Q. When was that?

A. About two years ago.

Q. To what attorney did you turn them in?

A. James A. Hoyt.

Q. Where is he?

A. In Cleveland.

Q. What did you turn in to him?

A. There were a lot of weekly letters. I used to get out a weekly letter giving information, as far as I could gather it. We turned those in.

Q. To whom were those weekly letters addressed?

A. They were addressed to each individual member of the association. It was a part of my business to collect statistics and get in touch with the market generally. While I did not exactly give advice, I gave them the benefit of what knowledge I obtained and sent it out to them in the shape of a weekly letter.

Q. You have spoken of weekly letters that you turned over. What else did you turn over to him?

A. There was no record book. There were just memoranda showing the membership and the capacity and whatever papers we had. There were not very many of them.

Q. I am asking you to say, as far as you remember, the actual character of the papers that you turned over to Mr. Hoyt the last time. Just state as fully as you can and describe as fully as you can the papers that were turned over to him.

A. They were copies of these weekly letters and memoranda in regard to the tonnage and capacity, and things of that sort.

Q. What period did they cover—those that were turned over last?

A. They covered perhaps a year.

Q. Had you ever turned over any before that to him?

A. Yes.

Q. When was the time next preceding this that you turned over papers to him?

A. I do not remember clearly.

Q. How often did you turn over papers to him?

MR. LINDABURY: I think I ought to note an objection to this testimony on the ground of its irrelevancy and immateriality.

THE WITNESS: Infrequently. I could not say. Perhaps once in a few months. Perhaps not oftener than once a year.

By MR. DICKINSON:

Q. When did you begin turning over papers to Mr. Hoyt?

A. I could not remember that.

Q. What is the first year you can recall that you ever turned over any papers to him?

A. I cannot recall any specific year.

Q. Can you recall that you turned over papers to him more than one time?

A. Yes.

Q. More than twice?

A. I should think perhaps half a dozen times.

Q. How far back as nearly as you can remember, would the first instance be?

A. I could not tell from memory.

Q. How about 1904? Did you turn over any to him prior to that time?

A. I do not remember.

Q. Have you any of the papers of this association in your possession or under your control?

A. No, sir.

Q. None whatever?

A. None whatever. Mr. Hoyt was our attorney representing the people, and was supposed to keep us out of difficulty. I think he did, too.

Q. How long was he your attorney?

A. From the time the association was first formed.

Q. You say he was supposed to keep you out of difficulty. What do you mean by "keep you out of difficulty"?

A. We did not want to violate the law. We were law abiding citizens.

Q. Mr. Butler, state whether or not at any time the association brought to the attention of the members of the association the question of selling pig iron to the United States Steel Corporation; and if so, whether such sales were made to the United States Steel Corporation.

A. The United States Steel Corporation was one of our best customers. Mr. Dinkey, or Mr. Schwab, or Mr. Corey, whoever was president at the time, either of the Carnegie Steel Company or the Corporation, would make an inquiry. They would perhaps send for me, and say that they wanted to buy a certain quantity of pig iron and were willing to pay a certain price. I would then communicate with the different members, and tell them that I had an opportunity of selling a certain quantity of iron for a certain delivery, and usually it resulted in a sale.

Q. Did that occur frequently or infrequently?

A. During a certain period they bought iron from us frequently. They have not bought very much lately.

Q. What amounts would they buy? Just state generally.

A. All the way from 100,000 tons up to, I think on one occasion, 400,000 tons.

Q. State, Mr. Butler, as nearly as you can, the period

during which those sales took place, by years. I do not expect you to recall the exact dates, of course.

A. I do not think there was any intermittence at all. I think there were sales from the beginning down to a few years ago.

Q. Down to a recent time?

A. Yes, sir.

Q. When was the last purchase made that you recall?

A. About two years ago, I think. There have been sales made since by the individual furnaces that were formerly in the association.

Q. But their attention was not called to it by the association?

A. No, sir. There was no association.

Q. You are only speaking now of the time when the association itself was in activity?

A. Yes. I think the last sale was about two years ago.

Q. Prior to that time had the United States Steel Corporation been a constant purchaser?

A. The United States Steel Corporation?

Q. I mean the subsidiaries.

A. Well, that is better. The Carnegie Steel Company and sometimes the National Tube Company—usually the Carnegie Steel Company—made the purchase and distributed the tonnage.

Q. I understood you to say that was done with considerable regularity?

A. Yes, sir.

Q. Throughout the whole period up to the time the association ceased?

A. Yes, sir. They were one of our best customers.

Q. Mr. Butler, please state whether or not you attended a meeting in Chicago, on or about July 26, 1900, where the leading steel and Bessemer pig iron interests were represented, said meeting being held in the office of the Federal Steel Company, and having been called by Mr. E. H. Gary, of the Federal Steel Company; Mr. C. M. Schwab, of the Car-

negie Steel Company, and Joseph G. Butler, Jr., representing the Bessemer Furnace Association.

A. I have a pretty good memory, but I do not recall that meeting.

Q. Do you recall having called or participated in a call for any such meeting in Chicago at any time?

A. No, sir; I do not. That is a good while ago. I cannot recall any such meeting.

Q. Do you recall ever having attended any meeting in Chicago at which were present Mr. E. H. Gary, representing the Federal Steel Company; Mr. C. M. Schwab, representing the Carnegie Steel Company, and others representing the steel and pig iron interests?

A. No, sir; I cannot recall having attended any meeting in Chicago on that business.

Q. Do you recall ever having attended at any place any meeting of the representatives of the leading steel and Bessemer pig iron interests prior to the formation of the United States Steel Corporation?

A. No, sir; I cannot.

Q. State whether or not you were at a meeting about October 1st, 1903, held in the offices of the Carnegie Steel Company, in the Carnegie Building, Pittsburgh, where the iron and steel interests were represented.

A. I do not recall that particular meeting.

Q. Do you recall any meeting in the year 1903, which took place at the office of the Carnegie Steel Company, at which you were present as representative of the Bessemer Pig Iron Association?

A. I do not recall that.

Q. Mr. Butler, state whether or not you acted as one of a committee of five appointed at a meeting which took place some time in the year 1903 at the office of the Carnegie Steel Company, Carnegie Building, Pittsburgh, which committee was appointed for the purpose of drawing up a plan to consider the question of curtailing over-production.

A. I do not recall it.

Q. If you do not recall a meeting at that time and place,

state whether or not you, at any time, ever acted as a member of a committee composed of J. G. Butler, Jr.; D. B. Meacham, of the Cleveland Furnace Company; W. P. Snyder, of the Shenango Furnace Company; D. G. Kerr, of the United States Steel Corporation, and A. W. Thompson, President of the Republic Iron & Steel Company, which committee took under consideration the question of curtailing the production of pig iron.

A. I do not remember any specific meeting, but I think I did take part in something of that sort.

Q. As a member of some such committee?

A. I think so, yes.

Q. State whether or not these other gentlemen named were members of that committee.

A. I do not recall. I know them all very well, and I imagine that if there was such a committee they were on it. They were all interested in the pig iron business.

Q. Can you say that you either were or were not a member of such a committee, composed of yourself, the said Mr. Meacham, the said Mr. Snyder, the said Mr. Kerr and the said Mr. Thompson?

A. I do not recall it specifically enough to say positively that I was.

Q. Were you ever a member of any committee which took under consideration the question of curtailing the production of pig iron, which committee made a report on that subject?

A. I do not recall it specifically enough to state positively that I made any report or was a party to any.

Q. Did you ever serve on any such committee with Mr. D. B. Meacham?

A. I do not recall it.

Q. Did you ever serve on any such committee with Mr. W. P. Snyder?

A. I cannot recall any specific time.

Q. Can you recall any time, specific or not specific, that you served on such a committee with Mr. Snyder?

A. No; I cannot.

Q. Can you recall any time that you served on such a committee with Mr. D. G. Kerr?

A. I cannot recall.

Q. Can you recall any time that you served on such a committee with Mr. A. W. Thompson?

A. Not clearly, no sir.

Q. Do you recall anything about serving on such a committee with Mr. Thompson?

A. No; I do not.

Q. Did you, at any time, join with any committee in making any report either to the furnace operators individually, or to another meeting, in respect of the curtailment of the production of pig iron?

A. I have no recollection of it; I do not recall it.

Q. Did you ever serve on any such committee, upon which there was a representation of any of the subsidiaries of the United States Steel Corporation?

A. I do not recall it.

Q. Mr. Butler, do you know of any committee serving during the year 1903, or about that period, which took under consideration the question of the curtailment of pig iron; whether any such committee made an announcement to the effect that furnaces with an annual output of 12,000,000 tons will curtail production one-fourth from October 1, 1903, to the end of the year, the curtailment of production thus amounting to 750,000 tons?

A. I do not recollect making any such report or being a party to it.

Q. Do you know whether or not in the latter part of 1903 there was a general curtailment participated in by the producers of pig iron in the Mahoning and Shenango Valleys, by which the production of pig iron was curtailed?

A. I do not remember that specific year. I know we curtailed production when we had too much on hand.

Q. When there were periods during which there was an over production or an over supply, what method was followed in cutting down the production?

A. Well, as a rule, each fellow did what he thought was for his best interest. I know that is what we did at Brier Hill. If we wanted to run our furnace and pile our metal up and wait for a better market, we did it; and if we did not, we

shut down. Sometimes we would anticipate shutting down by making repairs perhaps a little sooner than we otherwise would make them, if the market were better. I think that applied to nearly every furnace company in the two valleys.

Q. I will ask you whether or not any of those shuttings down were simultaneous by competitive companies, there in the valleys.

A. I do not recall any simultaneous shutting down.

Q. Were any such curtailments preceded by meetings of manufacturers of pig iron?

A. Not that I recall.

Q. What iron producers would be embraced within what was termed the Central West?

MR. LINDABURY: At what time?

By MR. DICKINSON:

Q. Well, 1903.

A. That would take in the Mahoning and Shenango Valleys as the western limit. It would take in Cleveland, Columbus, the Hocking Valley, Toledo and Detroit, if there were any furnaces at this particular time in existence there.

Q. State whether or not, Mr. Butler, at that period, in that territory, a decline of 80,000 tons per week would have been a heavy or a small decline.

A. It would be rather a heavy decline.

Q. What was the output of pig iron at that time for the whole United States?

A. I could not carry that in my head. I cannot tell you.

Q. What was the output of the Middle West per week at that time, running to its full capacity?

A. I could not tell you. When I want to get such information I look it up in one of Mr. Swank's books.

Q. He would give that, would he?

A. Yes, sir. The annual report of the American Iron & Steel Association gives all those figures.

Q. Did the Bessemer Pig Iron Association have any committees?

A. I do not think so.

Q. I will ask you whether or not it had an executive com-

mittee composed of Samuel Mather, Harvey H. Brown, Edward L. Ford, Robert Bentley, Frank Hitchcock, L. C. Hanna, and J. G. Butler, Jr.

A. Yes, sir. I thought you meant subsidiary committees. There was an executive committee, and that is a correct roster.

Q. Did that committee exist in the year 1905?

A. I think so.

Q. What were the duties of that committee?

A. To consider the general conditions.

Q. What general conditions?

A. Of the pig iron business.

Q. Be a little more particular, if you can. What features of the general condition?

A. Whether it was prosperous, or otherwise.

Q. Anything else?

A. No. The duties of that committee were not very onerous. While they attended there the work was done by the representatives from each company.

Q. Did they consider the question of the amount of iron on hand in the market?

A. Sometimes; yes, sir.

Q. Did they consider the question of what was being produced?

A. Yes, sir.

Q. As to what furnaces were in operation, and what furnaces were not in operation?

A. I furnished that information.

Q. Did they consider the question of what prices were prevailing?

A. No. There never was very much said about prices.

Q. They talked about everything but prices?

A. We had to sell at the market price.

Q. Mr. Butler, I will ask you whether or not the Bessemer Pig Iron Association at times directed concerted movements by which a portion of the blast furnaces it controlled would bank down for certain periods of time, when an overstocked pig iron market made such restriction of output necessary.

A. No, sir; it never made any such distinction.

Q. Did or did not the members of the association take any such action?

A. That is possible.

Q. What effect, if any, did the organization and action under the Bessemer Pig Iron Association have upon the steadying of prices of pig iron?

A. I think it had a very good effect.

Q. What do you mean by a good effect?

A. It enabled us to get a little more than cost for our product.

Q. Mr. Butler, state whether or not you compiled and sent out monthly blast furnace reports of the production of pig iron in the Central West, keeping them advised of the fluctuations in pig iron output, and to people other than members of the Bessemer Pig Iron Association.

A. No; not in that form.

Q. If you sent out any, please state what?

A. We sent out statements simply showing the furnaces in and out of blast, and the percentage.

Q. Where did you send them to?

A. To everybody in the pig iron business. I am doing it yet.

Q. Did you send any of them to the Iron Age?

A. I think so.

Q. Did the Iron Age representative ever call on you from time to time for information on these subjects?

A. Frequently. I gave him information and he gave me information. The same is true of the Iron Trade Review.

Q. Can you name some of the representatives of those two papers that called on you at various times?

A. Mr. Robert A. Walker. He was the local representative here of the Iron Age. The Iron Trade Review have made two or three changes in their representatives. Mr. Stark was here at one time, and Mr. Stephenson.

Q. For what purpose did you give that information?

MR. LINDABURY: That is objected to as irrelevant.

THE WITNESS: They were the two representative trade papers of the country, and they wanted to get what would be correct information to go to the general public.

Q. You expected it to be published, did you?

A. Undoubtedly, or I would not have given it to them.

Q. Did you, yourself, read the Iron Age?

A. Yes. I read it yet.

Q. Did you read it as a source of information on the pig iron and steel business of the country?

A. Yes, sir.

Q. What was the character, Mr. Butler, of the Iron Age, as to recording correctly the current history of the business of pig iron and steel in the United States?

A. Very good indeed. It is considered very reliable.

Q. What was the character of the Iron Trade Review, as to recording correctly the current history of the business of pig iron and steel in the United States?

A. Very reliable.

Q. Did you furnish their representatives with information for the purpose of being published?

A. Yes, sir.

Q. Did you ever correct them for any misstatement as to any information that you gave them?

MR. LINDABURY: I object to that.

A. That is assuming that I gave them a misstatement, is it not?

By MR. DICKINSON:

Q. Well, I will word it so that there will be no doubt about it. Did you ever correct them as misstating in their paper any information that you had given them with the expectation that it would be published?

A. I do not recall it; if they did not publish it as I gave it to them, I very naturally would correct them.

Q. If you did correct them, you do not recall it?

A. I do not recall it, no.

Q. State generally whether or not they reported you correctly.

MR. LINDABURY: Objected to as irrelevant.

A. Yes, sir.

By MR. DICKINSON :

Q. State whether or not on or about January 30, 1908, there was a meeting of the blast furnace interests of the Pittsburgh, Mahoning Valley, Shenango Valley, Wheeling, Columbus, Scottdale and other nearby districts, held in the Duquesne Club of Pittsburgh, at which there was an agreement to maintain prices for the different grades of pig iron, on the following basis, to-wit: Bessemer, \$18; basic, \$17; No. 2 foundry, \$17; gray forge, \$16; all at Valley Furnace, to which a 90 cent freight rate to Pittsburgh should be added; and whether or not you were chairman of that meeting.

A. I think there was such a meeting, but there was not any agreement. There was talk about prices, and so on; but I do not recall being at any meeting where any agreement was made as to any specific prices.

Q. Were you chairman of the meeting?

A. I think I was, yes.

Q. Who were present at the meeting?

A. I think you have the representation there, about as you have read it.

Q. But I mean what individuals were present.

A. I do not recall any one specific individual.

Q. State whether or not, following that meeting, an announcement of prices, such as I have given above, was made, and whether or not such were the prices that were followed.

A. I have already stated that there was no agreement about prices that I was any party to.

Q. I am not asking you now whether or not there was any agreement, but I am asking you whether subsequent to that meeting there was an announcement in the trade journals of the prices as I have given them in my question, and whether or not those interests represented at that meeting sold at those prices.

A. I made no such announcement.

Q. Was there such an announcement made in the trade journals, of the prices, of the date following that meeting?

A. There may have been.

Q. Was it customary for the trade journals, such as the Iron Age, to announce prices?

A. They were around hunting news all the time, and giving their opinion as to what prices were.

Q. How had the prices been prior to that meeting?

A. I do not recall.

Q. What was the condition of the pig iron business, satisfactory or unsatisfactory?

A. I do not remember. I would have to look up the records.

Q. What record?

A. Mr. Swank's statistics.

Q. This is 1908 that I am calling your attention to.

A. I would have to look it up for the last year in order to answer it correctly.

Q. Did you ever have such meetings as that, Mr. Butler, when business was booming and prices were satisfactory?

A. Oh, we had frequent meetings about different matters—about labor matters, and all sorts of things connected with the business.

Q. At this meeting were prices discussed?

A. I do not recall the meeting specifically enough to answer that question.

Q. At this meeting was any announcement made by you or by any other one present as to prices, that you or the company represented by any other person would sell at?

A. I think it is possible we may have said that we would not sell lower than some specific price.

Q. You say it is possible you may have said it?

A. Yes, sir.

Q. I will ask you what you did say.

A. I do not recall it with sufficient clearness to answer the question.

Q. Was there any price cutting in the early part of 1908 or the latter part of 1907, in pig iron?

A. What do you mean by "price cutting"?

Q. I mean people going out after business and selling under what had been the quoted current prices?

A. I think everybody looked out for himself. If he wanted to take an order at a little bit less, he did it.

Q. I will ask you whether or not the trade at that time was in a healthy condition or in a demoralized condition.

A. What year was this?

Q. Next preceding February 13, 1908. I do not mean the year preceding, but the time next preceding February 13, 1908.

A. I do not recall sufficiently to answer that specifically. There are a great many ups and downs in the pig iron business.

Q. I will ask you whether or not you attended, on or about February 13, 1908, a meeting at which were represented the pig iron manufacturers of the Central West, at which Mr. Corey, president of the United States Steel Corporation, was present.

MR. LINDABURY: Held where?

MR. DICKINSON: I have not placed it. I will say anywhere.

A. Do you mean strictly a pig iron meeting, a meeting of pig iron manufacturers?

By MR. DICKINSON:

Q. No, I will not restrict it to that. I will say any meeting at which any question in relation to pig iron was discussed, and at which Mr. Corey was present?

A. I do not keep a diary, and I can not remember any specific time. I think there was perhaps an ore meeting. There was an ore meeting at Cleveland, and pig iron may have been talked of; in fact, I think it was.

Q. Was Mr. Corey present?

A. Yes.

Q. Where?

A. I think that was held in one of the offices in Cleveland. I am trying to recall where it was. Perhaps it was Harvey H. Brown or the Cleveland Cliffs Iron Company.

Q. At what time was that meeting?

A. I do not remember the date, but there was a meeting of the ore and pig iron people held in Cleveland two or three years ago; but I cannot remember the exact date.

Q. Who were present at that meeting?

A. They were mostly Cleveland people connected with the trade.

Q. How long after the panic did that occur?

A. I think it was in 1907 or 1908. It was three or four years ago, anyway.

Q. Either 1907 or 1908?

A. I think so; although I would not want to say that positively.

Q. Have you stated who were present at that meeting—the individuals?

A. No.

Q. Please state them?

A. I will state those I recollect. I think Mr. Samuel Mather was there; Mr. Oglebay, of Oglebay, Norton & Company, was there; I think Mr. Billings, of Todd, Stambaugh & Company; I think Mr. Richards, of M. A. Hanna & Company, and perhaps some others. Those are all I can recall.

Q. Who called the meeting?

A. I do not know. I did not.

Q. From whom did you get notice or word or information that there would be such a meeting?

A. I think I got it from Mr. Billings. Mr. Billings is the president of Todd, Stambaugh & Company, and I am connected with the house, and I think he asked me to come up to attend the meeting.

Q. What occurred at that meeting?

A. I could not answer that. I took very little part in it.

Q. Were you there throughout the meeting?

A. No; I did not stay throughout the entire meeting.

Q. Were you there when it opened?

A. No; I do not think so. I think my train was a little late and I got in after the meeting had opened.

Q. What time did you get in the city?

A. Probably about 11 o'clock.

Q. Did you go direct to the meeting?

A. I think so.

Q. What time did you leave the meeting?

A. I cannot remember.

Q. How long were you at the meeting altogether?

A. Probably a couple of hours.

Q. While you were there state what was said in regard to pig iron or ore?

A. The general condition of the ore business was talked of, but I cannot tell you anything specific. As I say, I was there in a subordinate position, invited by Mr. Billings, my principal, and he was the active man representing the house, representing the firm.

Q. Was there any discussion of prices there?

A. I think possibly there was.

Q. Of iron and ore both?

A. I think so.

Q. Do you know what price was particularly spoken of in respect of pig iron?

A. I do not remember.

Q. I will ask you whether or not the question of maintaining the basis of \$17 a ton at Mahoning Valley and Shenango Valley Furnaces, for No. 2 Foundry iron was discussed?

A. I do not recall it.

Q. Do you say that Mr. Corey was there?

A. Mr. Corey was there, if that is the meeting you are talking about.

Q. I am talking about the meeting at which I understood you to say Mr. Corey was present.

A. Yes.

Q. Did you hear Mr. Corey say anything?

A. Yes; but I do not remember what he said. I remember what he said in the evening, but——

Q. (Interposing) Do you remember what he was talking about?

A. Talking about the general condition of the business.

Q. You were not discussing the weather?

A. No, sir.

Q. Did you talk about prices?

A. Very naturally.

Q. Did Mr. Corey talk about prices?

A. I think he did; yes, sir.

Q. What did he say?

A. I don't remember.

Q. You say Mr. Corey was there?

A. Yes.

Q. State whether or not Mr. W. P. Snyder was there.

A. I think he was, yes.

Q. Was Mr. Samuel Mather there?

A. Yes; I have already stated from my recollection that he was there.

Q. And you were there; you stated that?

A. Yes.

Q. How about John A. Topping?

A. I do not distinctly recall Mr. Topping being there. He may have been there.

Q. How about Mr. B. F. Fackenthal, Jr.?

A. I do not recall him.

Q. How about J. C. Mabon?

MR. LINDABURY: Give the companies they represented, please.

By MR. DICKINSON:

Q. Mr. Mabon represented the Sloss-Sheffield Steel & Iron Company.

A. I do not recall him. He may have been there.

Q. W. A. Rogers, of the Buffalo & Susquehanna Iron Company?

A. I think he was there.

Q. Frank S. Witherbee?

A. Of Witherbee, Sherman & Company, yes; I think he was there.

Q. E. S. Cook, of the Warwick Iron & Steel Company?

A. I think he was there.

Q. Charles H. Zehnder, of the Alleghany Ore & Iron Company?

A. I do not recall him specifically. He may have been there.

Q. Were you or not a member of one of the sub-committees appointed subsequent to the first Gary Dinner in New York, which committee was known as the Ore & Pig Iron Committee?

A. I think I was; yes, sir.

Q. I will ask you whether or not these gentlemen whose names I have called were also members of that committee.

A. I would not want to answer that without looking at the records. I think they were, but I am not sure.

Q. Who was chairman of it?

A. Mr. Corey.

Q. State whether or not you were at a meeting on or about June 11, 1908, in New York City, where there was a representation of iron and steel men.

A. I may have been. I do not recall it specifically.

Q. Were you at any meeting at or about that time in New York City, at which Judge Gary was present?

A. I do not recall it specifically. I probably was, though. I attended a great many meetings. We have a meeting at Youngstown tonight that I am anxious to attend.

CROSS EXAMINATION,

By MR. LINDABURY:

Q. Mr. Butler, I wanted to ask you about this matter of sales of pig iron by members of your association, apparently through the good offices of the officers of the association. You said that the Steel Corporation was one of your largest customers. Did you also sell to other large manufacturers?

A. Yes, sir; we sold frequently to the Cambria Steel Company, and to the Jones & Laughlin Steel Company, and to the Youngstown Sheet & Tube Company. The Youngstown Sheet & Tube Company were large customers. Also we sold to the Republic Iron & Steel Company, and, infrequently, to the Pennsylvania Steel Company.

Q. Was the price in each case a matter of barter?

A. Yes, sir.

Q. Were these orders usually large?

A. Yes, sir.

Q. Were they or not larger than any one of the manufacturers could fill?

A. No one furnace could have handled the business.

Q. I think you said the orders of the Steel Corporation ran from—

A. (Interposing) 50,000 to 400,000 tons.

Q. Averaging about what?

A. I should think the sales would average 100,000 tons.

Q. Was that more than any one, or even two or three of the furnace men could supply?

A. Yes, sir.

Q. Tell me about the method by which that business was done. Did you receive an offer, for instance?

A. I would get an inquiry from Mr. Dinkey, of the Carnegie Steel Company, for instance. Say they were in the market for a specific tonnage, and covering a specific period of time. I would usually go in and have a talk with him about it, and find out what they were willing to pay, and I knew pretty well, as I was in pretty close touch with our own people, what they were willing to sell for; and I would figure on about what I thought I could get out of them, and then I would go home and report it, and it usually resulted in a sale.

Q. How much bargaining did you usually have in those cases?

A. I tried to get all I could for the people I represented.

Q. And how about Mr. Dinkey?

A. He tried to get it as cheap as he could.

Q. Was he a pretty stiff trader?

A. Yes, he was.

Q. And he negotiated pretty closely, did he?

A. We frequently differed about the price, and I sometimes convinced him that he was wrong, and occasionally he convinced me that I was wrong.

Q. How did you place the order; what was the method?

A. I would either call the representatives of the furnace companies together, or communicate with them by telephone, or see them personally. It was done in that way sometimes. I would tell them I could sell a certain quantity of iron at a certain price, and they would sometimes take their share of it, take a portion of it, and sometimes some of them would not be satisfied with the price.

Q. Was it a frequent thing for some of them to refuse to participate because of the price?

A. Quite frequently, yes.

Q. Generally, was there some one or more of them who would not go in?

A. Usually one or two who would not be satisfied, or thought, perhaps, that they were not in a condition to make delivery.

Q. And they would stay out?

A. Yes.

Q. And there would be different ones at different times who would not go in?

A. Yes; according to their stock on hand and their other orders, perhaps.

Q. And in that way you finally made up the quota, and then with whom did Mr. Dinkey deal? Did he deal with you and the association, or with the individuals?

A. With the individuals.

Q. And you would give him their names?

A. The contracts were made out, and I had nothing to do with it then, after the sale was made.

Q. That is, you furnished Mr. Dinkey the names of the concerns who would fill the order, and the amounts each one would fill?

A. And the contracts were made direct between each company and the Carnegie Steel Company.

Q. And this matter of filling up the quota you attended to?

A. Yes.

Q. Did you get any pay for it?

A. Yes, I got a little pay, but not very much. The pay, though, was more to keep up the organization, the statistical end of it. We had to have a stenographer and other people, and that took about all—in fact, all we got out of it.

Q. Your pay was not for this specific work?

A. No, sir.

Q. Was about the same course pursued with Jones & Laughlin and others?

A. Precisely the same.

Q. Precisely the same method was pursued?

A. Yes, sir.

Q. Their orders also, I suppose, were larger than one furnace could supply?

A. Yes.

Q. And that was the reason for doing it in the way you have mentioned?

A. Certainly.

Q. I suppose it was a convenient way of handling their orders?

A. Yes, sir.

Q. Did the Steel Corporation ever offer you any more than the market price?

A. Never. I do not remember if they ever did. It was not the Steel Corporation; it would be the subsidiary companies—the Carnegie or the National Tube, or sometimes we would ship iron to Chicago, to the Illinois Steel Company.

Q. When I use the term “Steel Corporation,” I mean any of its subsidiaries. Did they ever pay, on any purchase of pig iron, anything more than the market price?

A. Never.

Q. And in every case it was a matter of close bargaining?

A. Always.

Q. At arm's length?

A. Each fellow did the best he could for the people he represented.

Q. And you got, I suppose, a little the better of it at times?

A. I would not want to say that.

Q. You tried to?

A. Yes, I did.

Q. I will ask you whether or not any subsidiary of the Steel Corporation was a member of these ore associations or the Bessemer association, or any other of the associations you have named. I do not recall that you have mentioned any—

A. The only associations I have named are the Bessemer association and the ore association.

Q. Were they members of either?

A. Neither; no, sir.

Q. Was there any price agreement made at any of these

meetings that you have testified about, leaving out of consideration now who attended them?

A. No, sir.

RE-DIRECT EXAMINATION,

By MR. DICKINSON :

Q. What do you mean by "price agreements," Mr. Butler?

A. Agreed prices.

Q. Do you mean a formal agreement by which the parties entered into a contract with each other?

A. I do not know that I catch your meaning.

Q. You know what a contract is, where parties mutually obligate themselves to one another?

A. Yes, sir.

Q. And an agreement may be in the nature of a contract, may it not?

A. Yes.

Q. Did you have any understandings with each other about prices?

A. Only in the way I have explained previously, that if I had an opportunity to sell iron and distribute it—

Q. No, no; I mean in these association meetings where prices were discussed, I understand Mr. Lindabury to be asking you about. I ask you whether before you separated at those meetings you had any understanding as to what the price would be?

A. No, sir.

Q. Were prices announced following these meetings, announced in the public prints?

A. They may have been.

Q. I will ask you, from your knowledge, whether they were or were not generally announced.

A. I think the newspapers usually made some announcements.

Q. Following those meetings?

A. Yes, sir.

Q. You were asked about the capacity of any single furnace, and its ability to furnish an order varying from 50,000

to 400,000 tons. Within what time were those deliveries to be made, within what time would they have to be made, ordinarily?

A. That depended on the needs of the purchaser. Sometimes they would want a quantity of iron delivered immediately, and then again they would want it covering a period of time.

Q. How long a period?

A. I have made sales covering a period of two or three months.

Q. Did you have any furnaces there in the Shenango or Mahoning Valley that could have filled an order of 50,000 tons to be delivered within three months?

A. They might have been able to, but they might not want to. That would be a very large order for any one furnace.

Q. But I am asking now as to their capacity and not as to their desire.

A. No, not within two or three months.

Q. What was the largest capacity furnace there?

A. The largest capacity furnace is 100,000 tons.

Q. Are you speaking of a single furnace or a single operator?

A. A single furnace.

Q. But some of them have more than one furnace, have they not?

A. Well, the Andrews & Hitchcock Iron Company have, but the furnaces make different qualities, and I am speaking now of steel-making iron.

Q. Are Andrews & Hitchcock the largest there?

A. No, sir.

Q. Which is the largest?

A. Brier Hill. Our product was basic and Bessemer, what is known as steel-making irons. Many of these furnaces made foundry iron, and the Bessemer Association did not have anything to do with that at all.

Q. Were these orders from the Corporation for steel-making iron?

A. They were for steel-making iron exclusively.

Q. What is the capacity of your furnace?

A. One hundred thousand tons.

Q. One hundred thousand tons a year?

A. One hundred thousand tons a year; that is the minimum. We might make a little more, but that is about it.

Q. What was the capacity of Hanna & Company's furnaces a year?

A. I think about 80,000 or 85,000.

Q. Yours was the largest within that whole territory, was it?

A. Yes, sir.

RE-CROSS EXAMINATION,

By MR. LINDABURY:

Q. I observe that your name is down as an attendant at the so-called Gary dinners. Did you attend any of them?

A. I attended all of them; I never missed a dinner.

Q. There is a published speech of yours in one of these pamphlets giving the proceedings and the speeches made at one of those dinners. Did you make any speeches at those dinners?

A. I did not call them speeches. I just talked.

Q. Well, you made talks?

A. Yes.

Q. Was there any agreement or understanding, express or implied, reached or entered into at any of those dinners on the subject of prices, by which they were to be increased, decreased or maintained?

MR. DICKINSON: I object to that, because it calls for a conclusion of the witness, whereas, he should be called upon to state what was said by all parties who said anything at the dinner. Therefore it is incompetent.

By MR. LINDABURY:

Q. You may answer the question and then follow the Judge's suggestion and tell what was said at each of those meetings, so far as you are able to do so.

A. I would answer no.

Q. There was not?

A. No.

Q. What was the character of those meetings, and what was done and said at those meetings?

A. There was a whole lot said. There was not very much done.

Q. Tell what was said.

MR. DICKINSON: If you go into that, the witness will not be able to get away in time to catch his train.

MR. LINDABURY: Well, no matter, then. It was your objection——

THE WITNESS: I was going to say that it is all a matter of record. We made a record of it there.

MR. DICKINSON: Of course I do not object to your going into it.

MR. LINDABURY: I am content to stop there, if you are.

By MR. DICKINSON:

Q. I want to ask one other question. You stated it was all taken down in the record?

A. I think every Gary dinner was published.

Q. Do you know that a record was made of every meeting——

A. (Interrupting). I mean the talks, and what Judge Gary said, and what the others said. I think there was a stenographer present usually, and the proceedings were published, either in pamphlet form or some specific form.

Q. Do you know whether any record was made of the first Gary dinner?

A. I cannot answer as to that.

Q. You were only referring to these pamphlets that have been printed?

A. Yes, sir.

Q. And that is what you mean when you say records were made?

A. Yes, sir.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

(Whereupon, at 12:50 o'clock p. m., a recess was taken until 2:00 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

C. D. MARSHALL,

a witness heretofore duly sworn on behalf of the United States, was recalled and testified further as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Marshall, state whether or not, for a period prior to, say, November 1, 1911, the Harriman Lines solicited bids for such construction as comes within your line, and generally; and if you should say that they did not, how long a period would your answer cover?

A. I do not think that they have solicited inquiries for bridge work for a period of at least seven or eight years.

Q. What lines do you include in the so-called Harriman lines?

A. The Southern Pacific, the Union Pacific—I do not remember the names of some of those western roads.

Q. How about the Alton?

A. The Alton is another one.

Q. Are there any others that you can recall?

A. I would have to refresh my memory on what was included in the Harriman Lines.

Q. To what company, if any one company, has their bridge work within that period gone?

A. I think it has all gone to the American Bridge Company.

Q. Mr. Marshall, state what proportion of your material that you work up you have bought from the Carnegie Steel Company, and for how long a period you have been buying it.

A. For the last eight or ten years I think it has been about 60 to 75 per cent.

MR. DICKINSON: That is all.

CROSS EXAMINATION,

By MR. SEVERANCE:

Q. Mr. Marshall, you refer to the Alton as one of the Harriman Lines?

A. I am not sure that it is. I do not know.

Q. No. Nor are you sure that it has been continuously during this period you have mentioned?

A. No; I am not.

Q. How long ago did you say it was that they ceased asking you to bid on their work? Was it not longer ago than seven or eight years?

A. I do not recall. We were asked to bid once.

Q. Have you ever been asked to bid on any work for the Harriman Lines since the time the Union Pacific bought the stock and obtained control of the Southern Pacific?

A. Not that I can recall.

Q. That was in 1901, eleven years ago, was it not?

A. We were asked at one time by Mr. Thorne; I believe he is director of purchases. We at one time, quite a number of years ago, were asked to bid on some work; but that is as far as we ever could get.

Q. You had that one inquiry?

A. That one inquiry.

Q. So far as you recall, that is the only time since these two roads were put together?

A. Yes.

Q. Previous to the time the Union Pacific and Southern Pacific were put together, did you do work on the Union Pacific?

A. We just started in business in 1900.

Q. So that, as a matter of fact, you have never done any work on the Union Pacific?

A. Never; no, sir.

Q. Nor on the Southern Pacific?

A. No, sir.

Q. Have you done any work at all on the Alton, at any time?

A. We may have, but I do not recall it.

MR. SEVERANCE: That is all.

CHARLES E. E. CHILDERS,

a witness called by and on behalf of the United States, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. What is your place of residence, Mr. Childers?

A. Pittsburgh.

Q. What is your age?

A. 61.

Q. In what business are you engaged?

A. I am in the railroad business.

Q. What association have you with the railroad business?

A. I am joint agent of the Trunk Line Association, and I am secretary of the Pittsburgh Freight Committee.

Q. Does that association have anything to do with the question of ore rates and coal rates?

A. Not to my knowledge.

Q. Do you attend the meetings of the association?

A. Of the Trunk Line Association? Some of them. I have charge of a particular branch of the Association work.

Q. What branch?

A. The Freight Inspection Bureau here.

Q. Does that inspection cover the question of ore rates to the Lake ports?

A. No, sir; it has nothing to do with it.

Q. Do your duties bring that, at all, under your cognizance?

A. No, sir; not at all.

Q. State whether or not you were at any time secretary of the Western Pennsylvania and Eastern Ohio Railway Traffic Association.

A. I was.

Q. During what period?

A. I ceased to be secretary in May, 1910. I am not quite sure when I began. It was about five or perhaps six years before that date.

Q. While you were secretary, did you have charge of whatever books or papers the association had?

A. Yes, sir.

Q. Have you those now?

A. No; I have not.

Q. Where are they?

A. I don't know where they are.

Q. What did you do with them?

A. I turned them over to the chief clerk of Mr. James P. Orr, the assistant freight traffic manager of the Pennsylvania Lines.

Q. When did you turn them over?

A. In May, 1910.

Q. What did you turn over?

A. All the papers I had relating—

Q. Describe them generally.

A. They were practically all, or the bulk of them, copies of statistical reports which I had compiled and distributed.

Q. Distributed to whom?

A. To the interested coal-carrying roads in this territory.

Q. On what were they based?

A. Those were figures—

Q. I say, on what were they based, those reports that you made?

A. I do not quite understand the question.

Q. You say that you made statistical reports?

A. Well, my figures were based on reports rendered to me by the agents of the individual lines, of the tonnage.

Q. State what individual lines rendered such reports to you.

A. All the coal-carrying roads operating in the Pittsburgh, Western Pennsylvania and Eastern Ohio districts.

Q. Please name them.

A. There were the Pennsylvania Lines west of Pittsburgh; the New York Central Lines in this district; the Erie Railroad; the Baltimore & Ohio and the Bessemer & Lake Erie.

Q. Did you or not send to these several companies that rendered you reports these statistical statements based upon the reports sent in by all of them?

A. Yes.

Q. They were sent to each of those you named?

A. Yes, sir.

Q. What other papers did you turn over besides these statistical reports?

A. There were, as far as I can recollect, miscellaneous correspondence, not amounting to very much, in regard to these reports, and a few sets of printed minutes, which I happened to have, of meetings held by the interested coal-carrying roads; but not of the Western Pennsylvania and Eastern Ohio Railway Traffic Association.

Q. What period did they cover?

A. I think they covered the period probably from about—I am only speaking from recollection, you know.

Q. Oh, yes.

A. Perhaps the year 1900 to 1910. That is the period of my tenure as secretary, and that of my predecessor.

Q. What did these papers amount to in bulk, that you turned over?

A. The whole?

Q. Yes. In what form did you turn them over?

A. They were book files, for instance, of our statistical reports.

Q. How many books of those were there?

A. Probably eight or ten.

Q. Of what size were they?

A. Different sizes. I remember there was one large size monthly report, in a good deal of detail; and then there were smaller ones.

Q. What else beside those?

A. Then, as I say, there were bundles of correspondence, letters; tissue copies of my letters, and the originals of letters that I received; and these printed minutes.

Q. Were they in volumes?

A. The minutes?

Q. Yes.

A. No. We never bound them. They were simply gathered together by me in a stiff cover, with a clip.

Q. What was the bulk of them?

A. Six inches by three inches, I suppose. I am a poor guesser as to such things.

Q. Three inches thick?

A. No; that is the width. I did not describe the thickness. You are speaking of the minutes?

Q. I am speaking of the minutes. Suppose they were in a volume all together; about how many pages would there be?

A. Possibly 60.

Q. 60 pages?

A. Yes.

Q. Were they arranged according to consecutive dates?

A. Yes. That is based upon there being one issue of minutes each year, and each issue containing, roughly speaking, ten pages. That makes 60 pages altogether.

Q. How often did you issue these statistical reports?

A. From month to month; and then once a year, too, we had an annual report.

Q. Did you send out copies of these minutes of the meetings?

A. Yes.

Q. To the companies you have named?

A. Yes.

MR. DICKINSON: That is all.

CROSS EXAMINATION,

By MR. REED:

Q. Mr. Childers, in these statistical reports did you give the figures of ore shipments?

A. No.

MR. COLTON: I offer in evidence two contracts, dated July 30, 1904, between the Republic Iron & Steel Company, of Chicago, Illinois, and the Pittsburgh Steel Company, of Pittsburgh, Pennsylvania.

MR. LINDABURY: We accept the assurance of the Government counsel that these were executed and delivered, and we have no objection on that point, but we object to them on the ground that they are irrelevant and immaterial to the issues in this case.

MR. COLTON: I ask also that the originals may be withdrawn after they have been copied from the record.

MR. LINDABURY: Yes. That is understood as to all of them.

(The papers so offered and identified were thereupon marked Government Exhibit No. 159 and Government Exhibit No. 160, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. COLTON: I also offer in evidence contract of March 22, 1905, between the Republic Iron & Steel Company and the Pittsburgh Steel Company.

MR. LINDABURY: I should like to know from Government's counsel upon what theory as to relevancy this and the two preceding contracts are offered.

MR. COLTON: The Government proposes to connect these contracts with certain other contracts that have been in evidence, and it does not desire to make more specific its purpose, because it is unnecessary to apprise the other side of what it proposes to prove, and it might be a disadvantage to the Government in securing and completing its proof.

MR. LINDABURY: I think the defendants are entitled to know upon what theory, or in support of what issue the offer is made, and we insist upon an answer on that point. I understand the rule is that whenever any documents are offered in evidence counsel on the other side are entitled to know upon what theory or in support of what point the offer is made, so

that they are not taken by surprise, but are prepared to meet it.

MR. COLTON: I think the order of proof is always in the discretion of the Court, and the Court not being here, you can move to strike out on the ground that the order of proof was not proper. That would be a motion to take up before the Court in Philadelphia.

MR. LINDABURY: It is not a question of the order of proof, but it is a question of informing us upon what theory it is offered, to support what point, and we are all the more entitled to it if it is to be made competent by some proof undisclosed, to be offered at some later time.

MR. COLTON: The Government does not agree with counsel for the defendants, but that is something that can be taken up with the Court.

MR. LINDABURY: I object to the admission of the paper on the ground that it is incompetent, irrelevant and immaterial.

MR. DICKINSON: You agree that these were executed, do you not?

MR. LINDABURY: I agree with respect to this as I did with respect to the other two, upon the statement of Government's counsel that they were executed and delivered, and I waive the production of evidence in relation thereto.

(The contract so identified was offered in evidence and marked "Government Exhibit No. 161, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. COLTON: I offer in evidence the contract of date July 1st, 1903, between the Carnegie Steel Company and the Pittsburgh Steel Company.

MR. LINDABURY: I admit the execution and delivery of this contract, but object to its admission in evidence upon the ground that it is irrelevant and immaterial.

(The contract so identified was offered in evidence and marked "Government Exhibit No. 162, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. COLTON: I offer in evidence a contract dated October 11, 1904, between the Carnegie Company and the Pittsburgh Steel Company.

MR. LINDABURY: I make the same admission and take the same objection as to the last one.

(The contract so identified was offered in evidence and marked "Government Exhibit No. 163, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. COLTON: I offer in evidence contract dated March 17, 1905, between the Carnegie Steel Company and the Pittsburgh Steel Company, together with the endorsement of cancellation dated June 28, 1905, written across the face thereof.

MR. LINDABURY: I make the same admission and take the same objection as to the last.

(The contract so identified was offered in evidence and marked "Government Exhibit No. 164, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed on behalf of the defendants that counsel for the Government may withdraw these originals and substitute copies, and that they may return the originals to the owners, upon a promise that they will turn them over if they are required by either side.

WILLIS L. KING,

a witness heretofore duly sworn on behalf of the United States, was recalled and testified further, as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. You have been hitherto questioned in regard to your attending so-called Gary dinners and luncheons?

A. Yes, sir.

Q. I want to ask you whether or not you attended any meetings which took place preceding either said luncheons or said dinners on the day upon which they occurred, or at any time immediately antecedent.

A. Not preceding the first dinner, in 1907, but you will remember, probably, that the records show that committees were appointed at that first dinner covering various lines of steel products, and those committees did call meetings, and I

attended some of them. In fact I was chairman of one committee, and I called several meetings, I don't remember how many.

Q. The particular inquiry is whether or not on the day of the dinner, or luncheon, either those committees, or those who represented the large iron interests, had a day meeting preceding the luncheon?

A. I think that was a fact. Most of us were in New York there to attend the meeting, and it was only natural that we should have a preliminary talk, I think, about conditions.

Q. Where did those preliminary talks or meetings take place?

A. I think at the Railroad Club, some of them.

Q. At some room in the club?

A. Yes.

Q. When would these sessions begin, at what time of the day?

A. Generally about lunch time.

Q. Did you get together before lunch time?

A. No, I think not.

Q. How long did those sessions last?

A. Probably a couple of hours or longer. Lunch took a part of the time.

Q. Mr. King, I will ask you whether or not at or about the time of the dinner held in the early part of February, 1908, the manufacturers attending that dinner were in session for a period of two days.

A. I was not there, Judge. You ask about February, 1908?

Q. Yes.

A. My recollection is that that was the first dinner after the initial dinner. Certainly there was not any extended session like that.

Q. Nothing like two days?

A. Oh, no.

Q. Well, was there one that extended the greater part of the business hours of one day?

A. I have no recollection of attending any of those meetings that did not begin about lunch time, and they were finished in the early afternoon.

Q. At the meetings that you recollect were there any persons present except the members of these various committees?

A. I rather think not. I do not like to state that positively. They were meetings of the principal manufacturers of steel, and some of them might not have happened to have been on the committee.

Q. Do you know whether or not, in February, 1908, and preceding the dinner of that month, there was a meeting of steel manufacturers, other than the committee meetings?

A. Not a general meeting of steel manufacturers, if that is what you mean, Judge. Probably we are working a little at cross-purposes. This general committee that was appointed at the first so-called Gary dinner, consisting of five members, appointed in turn, a number of sub-committees connected with the various kinds of products made. Those sub-committees met at times; I do not know where or when. I think the meetings that I attended were mostly in Pittsburgh here.

Q. I am not asking about those, because we have already questioned you about that. What I am questioning you about is whether or not there was any meeting of the steel manufacturers preceding the dinner of February, 1908, which was quite an extended meeting.

A. I have no recollection of attending any meetings, preceding any of those dinners, that did not take place in business hours and usually about lunch time, and lasted a few hours. There may have been more steel manufacturers there than actually were represented on this committee. I am not sure about that. I think probably there were.

Q. Were those the sessions of the general committee that you were referring to, at which others may have attended?

A. I think so. That is my recollection.

Q. Were the members of any of the sub-committees at those meetings?

A. I think so.

Q. The chairmen?

A. The chairmen of the sub-committees were mostly members of the general committee.

Q. You had five on your general committee?

A. They were, generally speaking, chairmen of the sub-committees.

Q. Mr. King, did you yourself always attend the meetings of the Steel Bar Committee, or did Mr. Roland Gerry sometimes attend?

A. If anybody attended, I did. Mr. Gerry is not in that department of our business.

Q. In what department is he?

A. He is in the cold rolled shafting department.

Q. Did he attend any committees?

A. He attended any meetings there may have been of the cold rolled shafting association. You are not asking me about that now, as I understand. You spoke of the Steel Bar Committee.

Q. No; I am not asking about that.

A. I attended any meetings of the Steel Bar Committee.

Q. Did Mr. Gerry attend any meetings of these committees?

A. No, sir.

Q. How about structural material? Did he attend any of those meetings?

A. No, sir; he would not attend those.

Q. How about billets?

A. No, sir.

Q. Or the sheet bar sub-committee?

A. No, sir.

Q. Will you say that he did not attend those meetings, or that you do not recollect whether he did or not?

A. I feel very sure he would not attend any of the meetings except for the department of the business that he was directly connected with, which was cold rolled shafting.

Q. Mr. King, I am going to read you an extract from the Iron Trade Review, December 26, 1907, page 1028, and ask

you whether any such notice as this was sent out, to your knowledge; whether you recognize it.

MR. SEVERANCE: I object to counsel reading from an article in the Iron Trade Review to this witness, on the ground that any such question would be leading and irrelevant, that the witness's recollection cannot be refreshed by such means, under any rule of law; that if counsel desires to show by this witness what transpired at any meeting, he should ask the witness, and not tell him what some newspaper has stated about it, and ask him to assent or dissent from that.

MR. DICKINSON: This purports to be a notice sent out to the sub-committees, and Mr. King has stated that he was a member of the general committee. I want to bring this to **his attention** and ask whether he knows that a communication in substance like this was sent out by Judge Gary with his knowledge as a member of that committee. Now I will read it:

“In the appointment of sub-committees, the members of the general committee have used their best judgment in distributing responsibility amongst the different lines of business, confining the membership to as small a number as seems practicable. It is hoped everyone who has been appointed will cheerfully serve, and will attend and participate in the considerations of the respective committees, whenever called together by the chairman. It seems desirous that the committees meet in the near future, and as frequently as the interests of the trade may demand. While it is advisable that no agreements contrary to the law be entered into, there is no objection to frequent consultations for the purpose of receiving full information, and for the frank interchange of opinions concerning the business interests of all. The general committee will be pleased to receive information or give advice at any time concerning any subject which may be brought before the committee. The attitude and dispositions of the iron and steel makers of the country, it is believed, meets with the general approval of the public. It is hoped to meet again for dinner and social intercourse some time in the near future, perhaps early in February.”

MR. SEVERANCE: What is the question?

(The stenographer repeated the question as follows:)

“By MR. DICKINSON:

“Q. Mr. King, I am going to read you an extract from the Iron Trade Review, December 26, 1907, page 1028, and ask you whether or not any such notice as this was sent out, to your knowledge; whether you recognize it.”

MR. SEVERANCE: I make the additional objection that the question as framed asks for a conclusion.

MR. DICKINSON: I will alter the question to read: “A notice in substance like that.”

MR. SEVERANCE: The witness is asked to testify of his own recollection.

By MR. DICKINSON:

Q. Now, just answer, will you please?

A. My recollection of the proceedings—

MR. SEVERANCE: I object. That is not the question, as to what the proceedings were. You did not notice the question, Mr. King. He asked you whether you remember that that notice was sent out. It is no disgrace not to remember.

THE WITNESS: I do not. I do not remember any such notice as that.

MR. SEVERANCE: That is responsive.

By MR. DICKINSON:

Q. Did your committee have anything to do with approving any notice that was sent out?

A. The general committee, at their first meeting, after the first dinner—the date of which I do not remember, but which probably was within a short time—selected the chairmen of these sub-committees, and the chairmen of those sub-committees asked certain manufacturers making material covered by that particular committee to meet with the chairman of the sub-committee at some time in the future; and that was done.

MR. SEVERANCE: That has nothing to do with what he has asked you.

THE WITNESS: Then I do not understand the question.

MR. SEVERANCE: I do not think you understand his question.

MR. DICKINSON: I will keep on asking until he surely will.

By MR. DICKINSON:

Q. Did your committee authorize the sending out of a statement in substance like the one I have read?

A. Not at all.

Q. Do you know whether any such notice as that was sent out by Judge Gary?

MR. LINDABURY: That has already been answered.

MR. SEVERANCE: He has already said that he did not.

MR. DICKINSON: Let the witness answer.

THE WITNESS: I would say that no such notice was sent out with the authority of the committee.

By MR. DICKINSON:

Q. Leaving out the question of the authority of the committee, did you see any notice issued at that time that came to your notice in your business?

A. I did not.

Q. Did you keep records of matters of that sort?

A. No, sir; I did not.

Q. Did you keep a scrap book in which matters of that sort would be entered?

A. No, sir.

Q. You have no knowledge as to whether or not such notice as that was sent, as I understand you?

A. I have no knowledge.

Q. Have you any knowledge of any stenographic reports having been made of what transpired at any of the Gary dinners prior to February 18, 1909?

A. To the best of my recollection the stenographer was there and I saw at least a number of the printed proceedings of the dinner.

Q. Of what dinner?

A. Of all of them, so far as I can recollect.

Q. Have you ever seen any printed proceedings of the first dinner in 1907?

A. I do not believe I have.

Q. Have you ever seen any printed proceedings of the dinner in February, 1908?

A. I could not answer off-hand.

Q. Well, in June, 1908.

MR. SEVERANCE: What is the purpose of this?

MR. DICKINSON: If it is true, as I understood him to state, that there were reports made of all the dinners, we want to call for them.

MR. SEVERANCE: Why not ask him if he has seen them.

MR. DICKINSON: No. I am going to ask the Steel Corporation whether they have them.

MR. LINDABURY: I will state to you gentlemen that we have already furnished you every printed report of the speeches made at the dinners.

The Steel Corporation furnished to the Stanley Committee a complete printed record of the Gary dinners in so far as they were stenographically reported or printed. I know that the 1907 dinner was not stenographically reported, and that there is no print in existence of what was said at that dinner, and I think that is true also of the early dinner or dinners in 1908. All after that were stenographically reported, and the reports have been printed and were given to the Stanley Committee, and will be furnished to the Government counsel in this case on request.

THE WITNESS: To my recollection I have never seen any proceedings of that first dinner in November, 1907. I do not believe there was any stenographer there. I am not sure about the subsequent ones. I know that as to a number of them they were stenographically reported.

MR. DICKINSON: And they have been put in pamphlet form?

THE WITNESS: Yes; they have been put in pamphlet form.

MR. LINDABURY: Those were the later ones that were so reported?

THE WITNESS: Yes, sir.

ROBERT A. WALKER,

a witness called by and on behalf of the United States, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION,

By MR. COLTON:

Q. Mr. Walker, what is your present position?

A. I am the resident editor of the Iron Age, located in Pittsburgh.

Q. How long have you been with the Iron Age?

A. Twenty-seven years the first of April next year.

Q. What is the general character of the Iron Age?

A. You mean as regards the field that it covers?

Q. Yes.

A. The Iron Age is a trade journal devoted to the iron and steel and machinery trades.

Q. What duties does it perform toward the trade?

A. The Iron Age furnishes news regarding the condition of the iron and steel markets, new companies being organized, new machinery on the market, and general news of that character.

Q. How is this news prepared?

A. Our main office is in New York. We have branches, I believe, in seven or eight cities, with resident editors in each city to cover their own particular districts. We also have men traveling, gathering news in their travels.

Q. What effort is made to make the news accurate?

A. Every effort that we can possibly make.

Q. In the gathering of the news, in so far as you have gathered it during the time that you have been with the Iron Age, what was the general method that you have pursued in making sure that the news was accurate?

A. In every case where it was possible to get the news from first hands, from the parties directly interested, that was done.

Q. State whether or not it was a general rule that you did get the news at first hand.

A. Those were our instructions, yes, to do so wherever possible.

Q. In case you did not get the news first hand, what did you do?

A. Our usual custom is to hold it over for a week. If we think there is a reasonable certainty of the matter being true on a certain subject, we sometimes take a chance on its being correct. That is very, very seldom.

Q. When you take a chance on an article, do you publish it in the same manner that you would an article on which you had used proper efforts to have it verified by the responsible parties?

A. I think not. Of course that would be practically an unimportant item. In such a case we would say "it is reported," or "it is stated on good authority," or some phraseology to indicate that we are not responsible for the truth of the particular statement.

Q. And as to important items of news relating to the various branches of the iron and steel trade, it is your custom to verify them before they are published?

A. Absolutely so. I called up our New York office today about a quarter past twelve, and spent ten or twelve dollars for perhaps a four or five line item.

Q. What do you mean by "first hand?"

A. For instance, a statement was made that the Jones & Laughlin Steel Company were going to build a new blast furnace at Aliquippa. This is merely to illustrate the point. My endeavor would be to see somebody connected in an official capacity with that company, such as Mr. Jones or Mr. King, or somebody else.

Q. Does the Iron Age devote itself exclusively to the iron and steel trade?

A. The iron and steel, machinery and allied trades, such as tin plate and sheets, which come under the general heading of iron and steel.

Q. Does it deal in politics and general news?

A. No, sir; it does not.

MR. CORNEAU: Mr. Colton has some other matters to attend to, and I will introduce some of these articles.

By MR. CORNEAU:

Q. Mr. Walker, I show you a bound volume containing the Iron Age of December 17, 1896, and I call your attention to the article in the right hand column of page 1217. Can you state whether or not you wrote that article?

A. No, sir; I did not.

MR. CORNEAU: I will say, gentlemen, that the reason for that question is to give you an opportunity to cross examine with reference to some of these articles that Mr. Walker did write. We thought we would show which articles he wrote and which ones he did not.

We offer this on his preliminary qualification. We offer this article in evidence, headed "The Carnegie-Rockefeller Deal," in the issue of the Iron Age of December 17, 1896, pages 1217 and 1218.

MR. REED: That is objected to as incompetent, being hearsay; also as irrelevant and immaterial.

(The article so offered and identified was thereupon marked Government Exhibit No. 165, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence an article appearing in the Iron Age of January 7, 1897, page 25, volume 59 of these bound volumes, in the left hand column, under the title, "The Iron and Metal Trades."

By MR. CORNEAU:

Q. Look at that article and see if you wrote it, Mr. Walker.

A. No, sir; I did not write that.

MR. REED: That is objected to as incompetent, being hearsay; also as irrelevant and immaterial.

(The article so offered and identified was thereupon marked Government Exhibit No. 166, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence an article from the Iron Age of June 24, 1897, page 22, in the left hand column, under the heading "The Iron and Metal Trades."

MR. REED: That is objected to as incompetent, being hearsay; also as irrelevant and immaterial.

(The article so offered and identified was thereupon marked Government Exhibit No. 167, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence an article from the Iron Age of October 19, 1899, appearing in the right hand column on page 17, under the heading "Union Steel Company."

MR. REED: That is objected to as incompetent, being hearsay; also as irrelevant and immaterial.

(The article so offered and identified was thereupon marked Government Exhibit No. 168, October 30, 1912, and will be found in the Volume of Exhibits.)

By MR. CORNEAU:

Q. Can you state whether or not you wrote that article?

A. To the best of my knowledge, I did; yes, sir.

MR. REED: It is further objected to as not the best evidence of the witness's knowledge of that subject.

By MR. CORNEAU:

Q. Can you tell us how you got the information upon which you based that article?

A. I could not, at this late date; no, sir.

Q. Will you state whether or not, in a general way, it was obtained in the manner you have described already?

A. I would think so; yes, sir.

MR. CORNEAU: We also offer in evidence that part of an article appearing in the Iron Age of January 4, 1900, page 21, headed the Pittsburgh Iron Trade in 1899, by Robert A. Walker, Pittsburgh, Pennsylvania, which appears under the caption "Consolidations," beginning with such caption and ending before the caption, "Foreign Trade," at page 22.

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 169, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. I show you that article and ask you if you wrote it?

A. To the best of my knowledge, yes.

Q. Will you tell us in a general way on what information that article was based. It seems to be general in its nature and something of a review.

MR. REED: Objected to as incompetent.

A. The article was a general review of the Iron Trade in Pittsburgh in 1899, the conditions of the trade during that year, the prices ruling and anything else pertaining to the condition of the iron trade in that particular year, 1899.

By MR. CORNEAU:

Q. And based on what? That is, in reference to the time of getting your information, and so on.

A. Based on happenings during the year, such as consolidations and anything else that may have occurred.

Q. Were you or not during the year familiar with those events which you have referred to, and which you speak of in the article?

A. Yes, I was.

By MR. REED:

Q. Your familiarity with the matters and incidents mentioned in the article came through the communications from other men, did they not?

A. Yes.

Q. Instead of participation in those incidents yourself?

A. You mean active personal participation?

Q. Yes.

A. Yes, it came through communication, usually personal communication.

Q. You did not actually participate or share in any of the incidents mentioned in the articles?

A. No, sir; I did not.

By MR. CORNEAU:

Q. Will you state whether or not the matters referred to in this article were matters which were widely known in the trade at that time, among the public?

A. I think they were generally pretty well known in the particular trade they represented—the iron and steel trades.

MR. REED: It was very widespread hearsay.

By MR. CORNEAU:

Q. Perhaps it has already been covered, but I will ask you whether or not it was your business to keep yourself informed with respect to the current happenings in the trade generally?

A. As regards the Pittsburgh District, yes.

Q. And this article refers to the Pittsburgh District, as I recall it?

A. What we call the Pittsburgh District. You are referring now to the consolidations of Sharon and Union and others, are you?

Q. Yes.

A. Yes; we call that the Pittsburgh District.

MR. CORNEAU: We also offer in evidence from the Iron Age of July 26th, 1900, at page 22, left hand column, the article under the heading "The Iron and Metal Trades."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 170, October 30, 1912", and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. I will ask you if you wrote that article. In order to save time I ask generally whether you wrote these articles with such a caption as this, several of which appear here.

A. I did not write this, and I did not write these articles.

Q. So we may omit that question with reference to articles under that particular caption?

A. Yes.

MR. CORNEAU: I will also offer in evidence from the Iron Age of the same date, page 34, the article entitled "The Carnegie Steel Company going into rods."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 171, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. I will ask you if you wrote that article.

MR. REED: If you know.

MR. CORNEAU: Certainly, if he knows. Do not tell us anything you do not know.

A. I will try not to do so. To the best of my knowledge I did not write it. You might expedite matters if you will give me those pages. I will look at the articles.

MR. CORNEAU: I also offer in evidence from the Iron Age of August 2nd, 1900, page 24, article entitled "The Iron and Metal Trades."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 172, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. CORNEAU: We also offer in evidence from the Iron Age of September 20, 1900, page 17, the article entitled "Consolidations as a source of increased competition."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 173, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge I did not write it.

MR. CORNEAU: I will offer in evidence article from the Iron Age of November 1st, 1900, page 32, entitled "The Iron and Metal Trades."

MR. REED: Objected to as incompetent, being hearsay.

(The article referred to and so identified, was offered in evidence and marked "Government Exhibit No. 174, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. CORNEAU: We also offer in evidence from the Iron Age of December 13, 1900, page 7, the article entitled "Sheet Mill Machinery Agreement."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 175, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. State whether or not you wrote that article.

A. To the best of my knowledge I did write it.

Q. Can you recall in what way you obtained your information?

A. I could not at this late time, no sir.

MR. CORNEAU: We also offer in evidence, from the Iron Age of January 3, 1901, pages 32, 33 and 34, that part of the article entitled "The Pittsburgh Iron Trade in 1900," by Robert W. Walker, of Pittsburgh, appearing under the caption "New construction."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 176, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. Will you please state whether you wrote that article?

A. To the best of my knowledge I wrote it.

MR. CORNEAU: We also offer in evidence from the Iron Age of January 17, 1901, the article headed "Carnegie Plans", on page 33, right hand column.

MR. REED: Objected to as incompetent, being hearsay:

(The article so identified was offered in evidence and marked "Government Exhibit No. 177, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. Can you state whether or not you wrote that article?

A. To the best of my knowledge I did not.

MR. CORNEAU: We also offer in evidence from the Iron Age, March 28, 1901, page 38, the article under the caption, "Sharon Steel Company."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and

marked "Government Exhibit No. 178, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge I did.

MR. CORNEAU: We also offer in evidence article from the Iron Age of September 19, 1901, page 20, under the caption of "Union Steel Company."

MR. REED: Objected to as incompetent, being hearsay.

(The article so identified was offered in evidence and marked "Government Exhibit No. 179, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge I wrote it.

Q. Can you, at this time, tell where you got your information?

A. I could not at this time, no.

MR. CORNEAU: We also offer in evidence, from the Iron Age of August 7, 1902, page 40, the article under the caption of "Sharon Steel Company."

MR. REED: That is objected to as incompetent, being hearsay.

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge, I wrote it; yes, sir.

(The article so offered and identified was thereupon marked Government Exhibit No. 180, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence, from the Iron Age of October 16, 1902, page 6, the article beginning near the bottom of the right hand column on page 6 with the words "Duluth, Minnesota, October 13, 1902," and ending near the top of the left hand column on page 7.

MR. REED: That is objected to as incompetent, being hearsay.

By MR. REED:

Q. Did you write that article, Mr. Walker?

A. I did not.

(The article so offered and identified was thereupon marked Government Exhibit No. 181, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence the article from the Iron Age of November 27, 1902, pages 26 and 27, under the heading "The Union-Sharon Steel Companies Merger."

MR. REED: That is objected to as incompetent, being hearsay.

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge, I did not.

(The article so offered and identified was thereupon marked Government Exhibit No. 182, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence, from the Iron Age of December 11, 1902, page 49, the article under the heading "A New Rail Mill."

MR. REED: That is objected to as incompetent, being hearsay.

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge, I wrote it.

Q. Can you recall, at this time, how you got the information on which it is based?

A. I could not, at this late time.

(The article so offered and identified was thereupon marked Government Exhibit No. 183, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence the first paragraph of an article from the Iron Age of December 25, 1902, page 28, under the title "Worcester Manufactory News" and sub-title "The Absorption of the Union Steel Company."

MR. REED: That is objected to as incompetent, being hearsay.

By MR. CORNEAU:

Q. Did you write that article?

A. I did not.

(The article so offered and identified was thereupon marked Government Exhibit No. 184, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence, from the Iron Age of February 12, 1903, page 21, the article under the heading of "Lake Superior Ore Mines."

MR. REED: That is objected to as incompetent, being hearsay.

(The article so offered and identified was thereupon marked Government Exhibit No. 185, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence from the Iron Age of August 20, 1903, page 18, the article under the heading of "The Steel Corporation's Recent Ore Land Purchase."

MR. REED: That is objected to as incompetent, being hearsay.

(The article so offered and identified was thereupon marked Government Exhibit No. 186, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence from the Iron Age of March 3, 1904, page 35, the article under the heading "The Iron and Metal Trades."

MR. REED: That is objected to as incompetent, being hearsay.

(The article so offered and identified was thereupon marked Government Exhibit No. 187, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence, from the Iron Age of January 6, 1910, page 28, that part of the article headed "Pittsburgh Iron Trade in 1909," by Robert A. Walker, preceding the caption "New Construction."

MR. REED: That is objected to as incompetent, being hearsay.

(The article so offered and identified was thereupon marked Government Exhibit No. 188, October 30, 1912, and will be found in the Volume of Exhibits.)

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge, I wrote it.

MR. CORNEAU: We also offer in evidence from the Iron Age of January 30, 1908, page 375, that part of an article under the heading "Pittsburgh," commencing with the words "Park Building, January 29, 1908," which precedes the paragraph beginning with the caption "Steel."

MR. REED: That is objected to as incompetent, being hearsay.

By MR. CORNEAU:

Q. Do you know whether or not you wrote that article?

A. To the best of my knowledge, I wrote it.

(The article so offered and identified was thereupon marked Government Exhibit No. 189, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We also offer in evidence, from the Iron Age of November 12, 1903, page 41, the first two paragraphs of an article appearing under the heading "Iron and Metal Trades."

MR. REED: That is objected to as incompetent, being hearsay.

(The article so offered and identified was thereupon marked Government Exhibit No. 190, October 30, 1912, and will be found in the Volume of Exhibits.)

MR. CORNEAU: We would like to have it understood that the originals of these can be withdrawn.

MR. REED: That is understood.

MR. CORNEAU: That is all.

CROSS EXAMINATION,

By MR. REED:

Q. Were the men who wrote these articles under oath to tell the truth?

A. Were the men who wrote the articles under oath to tell the truth?

Q. Yes.

A. No, sir.

Q. Were they sworn to tell the whole truth?

A. Not to my knowledge; no, sir.

Q. Were they sworn to tell nothing but the truth?

A. Not to my knowledge.

Q. Since 1896, Mr. Walker, did the Iron Age ever find that any of its writers were careless or inaccurate or untruthful or prone to jump at conclusions?

A. Not to my knowledge. We do not conduct the Iron Age along those lines.

Q. And you have never found that any of the staff was open to any of those objections?

A. Not willingly; no, sir.

Q. And you have not had a careless man in your employ, for even a short time, since 1896?

A. I can not answer that question. I am located here and our main office is in New York.

Q. Then you can not vouch for the unfailing accuracy of the men in the other offices?

A. Only from the general instructions, in fact, the explicit instructions that are given me in the search for news. I would presume that those instructions apply to every man on the writing force.

Q. But now and then you find a man who is not altogether satisfactory on the writing force, do you not?

A. Unsatisfactory in what way?

Q. From the standpoint of accuracy.

A. I have never known a man to be discharged from the company for that reason.

Q. You never have?

A. No, sir.

Q. Since 1896 have any of these reliable writers made mistakes?

A. We are all prone to make mistakes. I would judge they have; yes, sir.

Q. They are no more than human. They make mistakes, like the rest of us?

A. Like the rest of us; yes, sir.

(The witness was thereupon excused.)

MR. LINDABURY: Counsel for the Government having called our attention to the fact that the statements from 1900 to 1904 offered in evidence on pages 1419 and 1420 of the printed record have not been printed, counsel for the defendants consent that they may now be printed as if offered at this time, and marked as Government Exhibits Nos. 191 to 195, both inclusive.

(The tables referred to were thereupon marked Government Exhibits 191, 192, 193, 194 and 195, and will be found in the volume of Exhibits.)

MR. DICKINSON: It is agreed by counsel that the charts referred to in Volume 1, page 381, marked Government Exhibits Nos. 68-a, 68-b, 68-c and 68-d, May 10, 1912, being charts from the Iron Age, need not be printed unless called for by either side.

MR. DICKINSON: Petitioner offers in evidence copy of a contract between the Federal Steel Company and J. P. Morgan & Company acting in behalf of a syndicate, and it is agreed on the part of defendants represented by Lindabury, Depue and Faulks as solicitors, that this copy shall be received as if it were the original executed contract, but shall be subject to correction and to objection on the ground of irrelevancy or immateriality.

MR. LINDABURY: Defendants object on both grounds.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 196, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. DICKINSON: The petitioner presents two pamphlets, one entitled "United States Steel Corporation, Final Settlement with Syndicate Managers, January-February, 1902," and the other "Preliminary Report to Stockholders, United States Steel Corporation, to be submitted at the first annual meeting, 17th of February, 1902," and gives notice that it will rely on as evidence the following parts of the first pamphlet, to wit: The part beginning with page 1, commencing

with the words "United States Steel Corporation," down to and including the ninth line from the bottom of page 2. Also page 5, commencing with the words "Report of the Finance Committees," and extending through the words "see post pp. 11-14" on page 7, together with the note at the bottom of page 7, beginning with the words "the execution" and ending with the words "Richard Trimble, Secretary," and also pages 11 to 14, inclusive; and of the pamphlet entitled "Preliminary Report, etc.," it will rely on as evidence the part beginning on page 13 with the words "organization and issue of stocks and bonds," and extending through the words "executed between the corporation and the syndicate managers" on page 17.

(The excerpts so identified were offered in evidence and marked "Government Exhibit No. 197, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed on the part of the defendants represented by Lindabury, Depue and Faulks as solicitors that there may be omitted in printing from said pamphlets the following: The part beginning with the words "Mr. Steele thereupon offered the following resolution," near the bottom of page 2, to the end of page 4. Also the second paragraph on page 7, beginning with the words "The Chairman called attention," and the remainder of that page and all of pages 8, 9 and 10 may also be omitted. Also the by-laws of the United States Steel Corporation as amended to January 7, 1902, and the minutes of the first annual meeting of the stockholders, February 17, 1902.

It is agreed on the part of the defendants represented by Lindabury, Depue and Faulks as solicitors that both pamphlets were issued by authority of the United States Steel Corporation, but the offer of portions of said pamphlets is objected to because the whole is not offered and because such parts are irrelevant and immaterial.

MR. DICKINSON: Petitioner offers in evidence a copy of a contract of March 1, 1901, executed between the United States Steel Corporation and J. P. Morgan & Company.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 198, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed on behalf of the defendants represented by Lindabury, Depue and Faulks as solicitors that this contract was executed and that this copy shall be received as if it were the original executed contract, but shall be subject to correction.

MR. DICKINSON: Petitioner also offers in evidence copy of agreement of April 1, 1901, between the United States Steel Corporation and J. P. Morgan & Company.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 199, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed on the part of the defendants represented by Lindabury, Depue and Faulks that this copy shall be received as if it were the original executed contract, but shall be subject to correction.

MR. DICKINSON: Petitioner also offers in evidence agreement of December 15, 1902, between the United States Steel Corporation and A. W. Mellon, R. B. Mellon and others, together with documents referred to therein.

(The papers so identified were offered in evidence and marked "Government Exhibit No. 200, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed in behalf of the defendants represented by Lindabury, Depue and Faulks that this copy shall be received as if it were the original executed contract, but shall be subject to correction.

MR. DICKINSON: The petitioner also offers in evidence copy of letter of December 14, 1909, from D. G. Kerr to W. E. Corey.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 201, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed in behalf of the defendants represented by Lindabury, Depue and Faulks that this copy shall be received as if it were the original, but shall be subject

to correction, and to objection on the ground of irrelevancy or immateriality; and objection is made on both grounds.

MR. DICKINSON: Petitioner also offers in evidence the agreement of February 4, 1901, between syndicate managers composed of Louis Fitzgerald, George J. Gould, et al. and the Union Railroad Company, and the Carnegie Steel Company.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 202, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed in behalf of the defendants represented by Lindabury, Depue and Faulks that this copy shall be received as if it were the original executed agreement but shall be subject to correction and to objection on the ground of irrelevancy or immateriality; and objection is made on both grounds.

MR. DICKINSON: Petitioner also offers in evidence the memorandum of agreement made April 30, 1904, between the Carnegie Steel Company and the Crucible Steel Company.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 203, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: It is agreed on behalf of the defendants represented by Lindabury, Depue and Faulks that this copy shall be received as if it were the original executed agreement, but shall be subject to correction and to objection on the ground of irrelevancy or immateriality; and objection is made on both grounds.

MR. DICKINSON: The petitioner offers in evidence a statement furnished petitioner by the United States Steel Corporation showing the developed iron ore mines owned by subsidiary companies of said corporation on December 21, 1910, in the Lake Superior ore region.

(The statement so identified was offered in evidence and marked "Government Exhibit No. 204, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. DICKINSON: Petitioner also offers in evidence a statement furnished to it by the United States Steel Corporation showing average invoice and average f. o. b. mill prices received by subsidiary companies of the United States Steel

Corporation on classes of steel products as shipped by them in the export trade during the calendar years 1906 to 1910, inclusive.

(The statement so identified was offered in evidence and marked "Government Exhibit No. 205, October 30, 1912," and a copy thereof will be found in the book of exhibits.)

MR. LINDABURY: Objected to as irrelevant and immaterial.

(Whereupon the further hearing of this case was adjourned subject to notice.)

